Event Materials

Please click the links below to access additional resources.

Today's Agenda

Panel Presentation Materials

Secondaries Pulse Check Report

Secondaries School

First for Market Insights

Proskauer

Secondaries School

First for Market Insights

Agenda

1:30 p.m.	**Welcome and Registration**
2:00 p.m.	**Opening Remarks**
	Background & Economic Considerations Timeline & Key Documentation Key Transaction Terms & Considerations
3:30 p.m.	**Coffee Break**
3:45 p.m.	Key Fund Terms & Considerations Key Considerations Around Structure
5:00 p.m.	**Closing Remarks**
5:15 p.m.	**Cocktail Reception**

Continuation Funds Secondaries School

First for Market Insights
New York
June 2025

Proskauer

Agenda:

I. Background & Economic Considerations
II. Timeline & Key Documentation
III. Key Transaction Terms & Considerations
IV. Key Fund Terms & Considerations
V. Key Considerations Around Structure
VI. Proskauer Team

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I. Background & Economic Considerations

GP-Led Transactions Options at-a-Glance

Quick/Simple

Solutions

- Term Extension
- Tender Offer
- Amend for Enhanced Recycling
- Preferred Equity
- NAV Facility
- Strip Sale
- Single-Asset Continuation Fund
- Multi-Asset Continuation Fund

Longer/Complex

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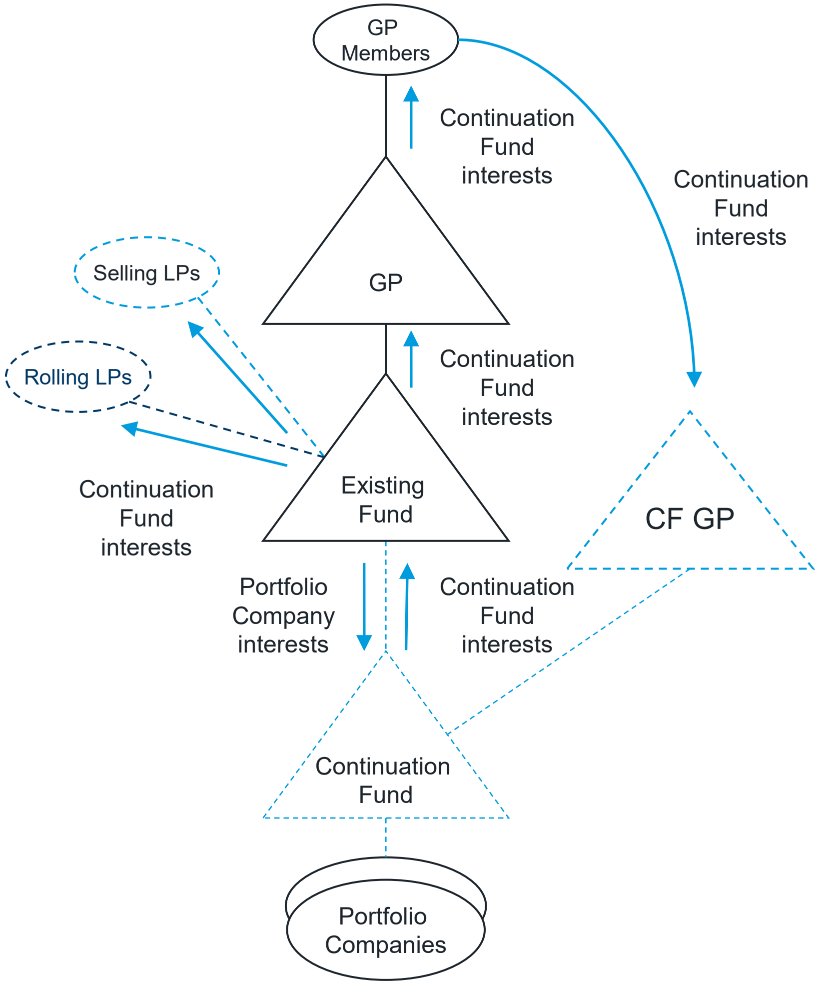
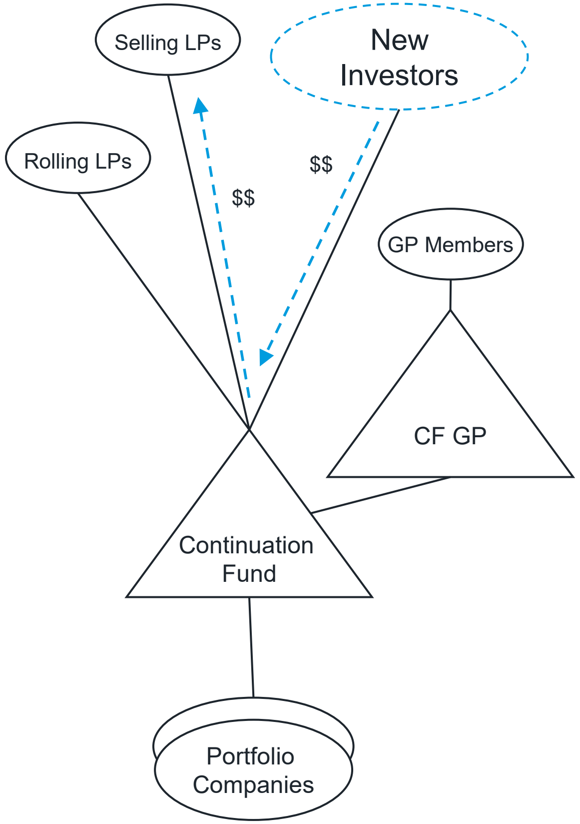
Continuation Funds: Characteristics; Motivations & Drawbacks





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Stakeholders

Sponsors

- Extended duration to optimize value of high performing assets
- Additional capital to support existing portfolio/investments
- Crystalize carry for GP
- Reset incentive economics
- Reset carry arrangements between executives who left and those who are still with the GP
- Sometimes seen as a solution to tail end assets

Existing LPs

- Current liquidity vs. future upside (what is being left on the table?)
- Ability to assess opportunity: roll or sell? Status quo offered?
- Conflicts of interest (what is GP receiving)?
- Internal allocation/portfolio management
- Proposed structure and economics
- Status Quo?

Buyers

- Access to a mature portfolio with unrealized upside
- Maximize return potential from IRR and multiple perspective
- Create GP/LP alignment that is not traditional 2/20
- Will there be a critical mass of selling LPs?
- How will GP manage conflicts and existing LP base?
- How much due diligence is possible?
- Unfunded commitment requirements for follow-ons and fees and expenses

Key Considerations

CONSIDERATION	COMMENTS

Fiduciary duties and conflicts of interest	• "Arm's length transaction"
	• Increased potential for intense, after-the-fact, scrutiny by aggrieved LPs and regulators
	    • Equal access to diligence in the dataroom?
	    • Fairness or valuation opinion provided to existing LPs?

LPAC/LP consent	• LPAC consent will typically be required to "cleanse" conflicted transactions • LP consents and LPA amendments may also be required • Best practice: Socialization for consents should commence early in the process to avoid "dead" deals
Tax Structuring	• Consider whether blockers are being purchased or inserted • Consider potential withholding taxes and how they will be addressed • Impact of tax characteristics of the portfolio or transferred securities (e.g., QSBS; non-US corporation; debt v. equity; common v. preferred) • Holding period
Regulatory Considerations	• Antitrust, state and federal securities law, CFIUS, SEC, FCC, and portfolio company specific consideration?

Economic Interests: General Concepts

Crystalized Carry

The value of carried interest as ***finally determined*** based on a distribution of the target portfolio companies (valued at the negotiated transaction value) by the original fund pursuant to the fund waterfall.

- Selling LPs
  - GP crystalizes carry
- Reinvesting Rolling LPs (new economic deal)
  - GP crystalizes carry
- Status Quo Rolling LPs
  - ***GP does not crystalize carry***

Economic Impact of Crystalizing Carry: An Example

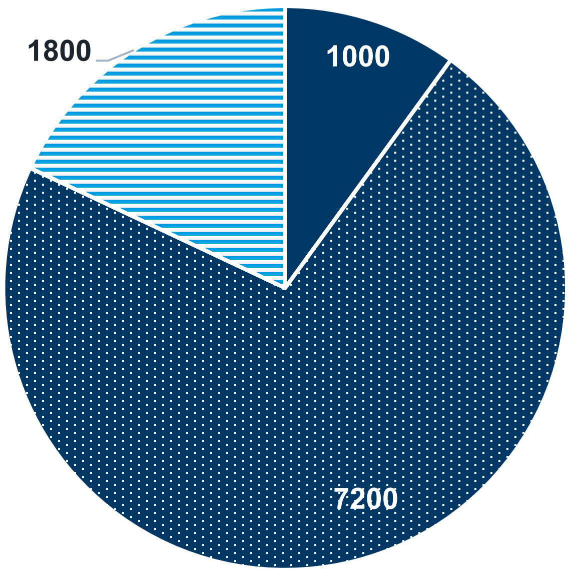
- Cost of target asset = 2,000
- Continuation fund transaction value = 8,000
  - GP is “in carry”
- Future gain (in CF) = 12,000
  - Value of target asset at exit = 20,000
- The carry rates for original fund and continuation fund = 20%
  - Assume no IRR/MOIC hurdles to carry
- LP elections: 50% sell & 50% roll

Economic Impact of Crystalizing Carry: Base Case

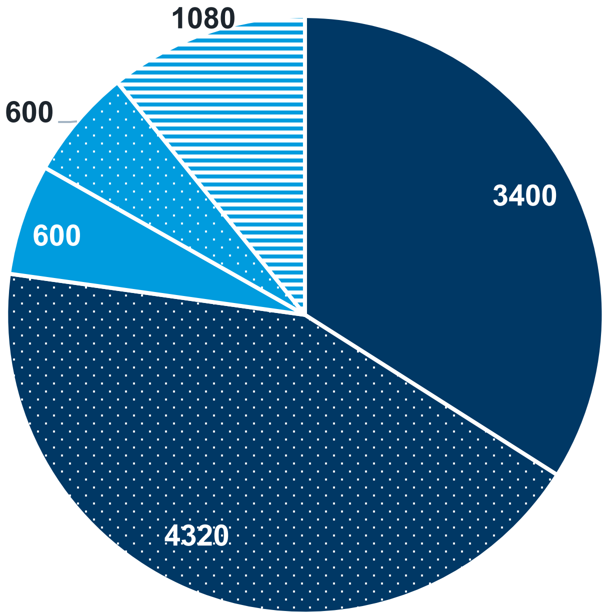
- Rolling LPs
- GP (in respect of Rolling LPs)
- New LP
- GP (in respect of Selling / New LPs)

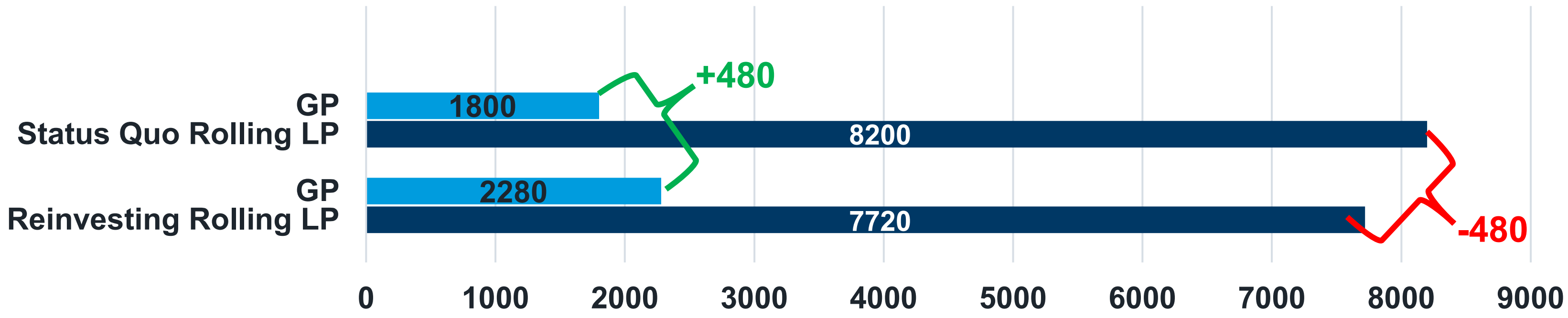
- Capital/Crystallized Carry
- Return on Capital/CC
- Carried Interest

50% Status Quo Roll



50% Reinvesting Roll





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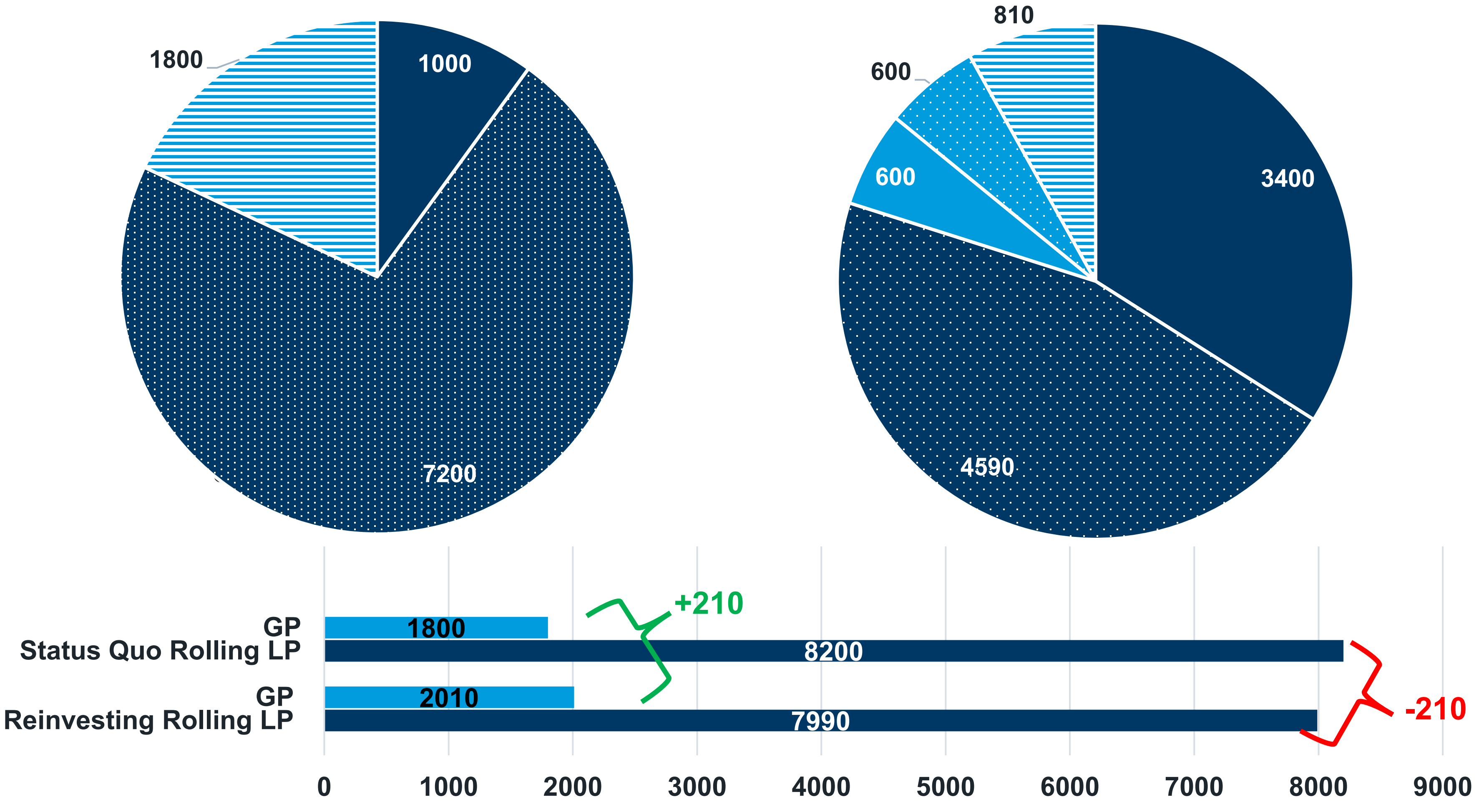
Economic Impact of Crystalizing Carry: Impactful Even When Carry Rate in Continuation Fund is Reduced

- Rolling LPs
- GP (in respect of Rolling LPs)
- New LP
- GP (in respect of Selling / New LPs)

- Capital/Crystallized Carry
- Return on Capital/CC
- Carried Interest

50% Status Quo Roll

50% Reinvesting Roll



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Questions?

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II. Timeline & Key Documentation

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Indicative Timeline: Continuation Fund

Start to Finish: 3-9 months

Prepare and circulate initial diligence materials:

- ► Prepare teaser presentation highlighting Selling Fund and portfolio company key financial metrics
- ► Commission Fairness Opinion
- ► Conduct change of control and consent analysis
- ► Upload relevant portfolio company equity & credit agreements, material litigation, key employee compensation matters, co- investment rights and commercial contracts to data room
- ► Conduct tax and structuring diligence

Consider if R&W Insurance will be used.

- ► If so, start process early
- ► Agree on allocation of cost and scope of coverage
- ► Consider exclusions and who bears liabilities not covered by RWI
- ► Determine treatment of proceeds

Key documentation:

- ► Term Sheet
- ► Rep & Warranty Outline
- ► Transaction Agreement
- ► Continuation Fund LPA and Side Letters
- ► Confidential Information Memorandum
- ► R&W Insurance Policy

Fund and Deal Closing

- ► Closing occurs once conditions have been satisfied (including regulatory consents and Approvals)
- ► Payment of Purchase Price
- ► Payment of closing expenses

NDA → **Due Diligence** → **Auction Process (if relevant** → **Term Sheet and RW Insurance** → **Approvals** → **Negotiate and Sign Documents** → **Election Process** → **Closing**

Process run by secondaries advisor and legal counsel

Lead Investors to consider:

- ► Appropriate pricing, including impact of any fairness opinion process
- ► Syndication process
- ► Process, number of rounds involved
- ► Acquisition finance
- ► Change of control and consent analysis findings

LPAC and/or investor approvals, as well as any third-party approvals

Existing LPs decide whether to sell or roll

Questions?

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III. Key Transaction Terms & Considerations

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Key Transaction Terms – Indemnification

CONSIDERATION	COMMENTS
Source of Recovery	• Representation and Warranty Insurance • Holdback/Deferral • LP Clawback Provisions
Caps/Deductibles/ Thresholds	• **Non-Fundamental Reps; Split Retention v. No Seller Indemnity:** Seller shares retention under RWI policy (e.g., first 0.125% as a deductible and second 0.125% seller on the hook before it goes to RWI policy) v. RWI as sole recourse for non-fundamental reps. • **Non-Fundamental Reps; Tipping Basket v. Deductible**: Recovery from dollar one once a certain threshold has been met v. recovery in excess of that threshold. • **Non-Fundamental Reps; Cap:** Recourse to seller typically limited to the seller's share of the retention/holdback amount, with further coverage under RWI policy. • **Fundamental Reps and Excluded Obligations; Cap:** Cap often equal to the purchase price / RWI policy limit; however, in large-cap transactions, sometimes see lower agreed-upon cap amount. • **Fraud Cap:** Cap often equal to the purchase price; however parties may agree to no cap for fraud-based claims.

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Key Transaction Terms – Reps & Warranties

CONSIDERATION	COMMENTS
Representations and Warranties; Survival	• **Fundamental Representations and Warranties.** – **Survival under TA:** Typically, 3-5 years. – **Survival under RWI**: Typically, 7 years. • **Non-Fundamental Representations and Warranties.** – **Survival:** Later of the (1) one-year anniversary of the closing and (2) 60 days following the delivery of audited financials for the year in which closing occurs. – **Survival under RWI:** 3 years. – **No Survival under TA:** Given trend toward low retentions under RWI policies (i.e., as low as 0.20%), we have many RWI deals where non-fundamental reps do not survive the closing. • **General Partner Representations and Warranties**. – **Survival:** Generally the same as the survival periods for "Fundamental Representations" and "Non-Fundamental Representations" based on the applicable representation being made by the general partner. • **Cure Provisions.**
Definition of "Knowledge Parties"	• **Identity**. Identify appropriate "knowledge parties" • **Due Inquiry.**

Typical Reps & Warranties

Typical Fundamental Reps & Warranties

- Organization and existence of the selling fund and portfolio company
- Requisite power and authority
- Due execution and delivery of transaction documents
- No-conflicts with organizational documents, law and contracts (knowledge qualified for the portfolio company)
- Title to the securities to be transferred to the continuation fund, free and clear of liens
- Capitalization of the portfolio company
- Post-valuation date contributions and distributions
- Broker fees
- Litigation against the selling fund and GP that could impede the transaction
- Solvency of the selling fund

Typical Non-Fundamental (General) Reps & Warranties

- Litigation against the portfolio company
- Compliance with law
- Licenses/permits
- Financial statements
- Undisclosed liabilities
- Provision of organizational documents and no breach of organizational documents
- Debt
- Tax Matters
- Obligations to make capital contributions or extend credit to the portfolio company
- Events of default under material financing agreements
- Affiliate transactions
- Solvency of the portfolio company
- OFAC and anti-money laundering

Key Transaction Terms – Survival for Excluded Obligations; Fraud

CONSIDERATION	COMMENTS
Excluded Obligations/Tax Liabilities/Fraud; Survival	• **Excluded Obligations.** – **Survival under TA:** Typically, 3-5 years. – **Survival under RWI**: Typically, 7 years. • **Excluded Tax Liabilities.** – **Survival under TA:** Typically mirrors that of excluded obligations generally or through the applicable statute of limitations. – **Survival under RWI**: 7 years for covered Excluded Tax Liabilities. • **Fraud.** – **Survival:** Typically, through the applicable statute of limitations; however, in mid/large cap transactions we sometimes see the parties mutually agree to a certain date based on the competitiveness of the potential transaction.

Typical Excluded Obligations

- Breach by selling fund of organizational documents or contractual obligations related to the portfolio company.
- Investments (and historical investments) of the selling fund not included in the transaction.
- Claims by LPs of the selling fund for breach of fiduciary duty or securities laws.
- Actions brought by governmental authorities against the selling fund in connection with the transaction.
- Fees payable to the intermediary.
- Return of dividends made to the selling fund by a portfolio company prior to the valuation date.
- Certain taxes attributable to the selling fund and LPs, and transfer taxes.

Current Highlights on Rep & Warranty Insurance

- **Base policy terms:**
  - Fundamental and non-fundamental reps: Typically, nil retention for fundamental reps and 0.20% or 0.25% of NAV retention for non-fundamental reps, dropping down to 0.10% 12 months post-closing.
  - Excluded Obligations – Typically nil retention.

- **RWI provides extended survival for breaches of claims and typically facilitates negotiation of the TA (at least in regard to reps, indemnification, scope of recourse).**
  - 3 years survival for non-fundamental reps.
  - 7 years survival for fundamental reps, excluded obligations, seller tax liabilities.

- **Cost: On all-in basis (i.e., premium, taxes, underwriting fees and broker compensation):**
  - 10% of NAV for all reps, including Excluded Obligations – 2.15% - 2.25% of the limit
  - Excess coverage above 10% of NAV for only fundamental reps – an additional 50 bps of the limit.
  - Excess coverage above 10% of NAV for fundamental reps + Excluded Obligations – an additional 0.75% - 0.90% of the limit.

- **Tax RWI**
  - Covers pre-closing taxes of the portfolio company, with a 7-year survival (subject to customary exclusions).
  - Requires accounting firm to prepare a tax due diligence report.
    - Diligence takes an accounting firm 2-3 weeks to complete <u>once</u> sponsor has provided the materials, with 1-2 calls with the portfolio company management.
  - Typically, 5% additional premium, with a 0.50% of NAV retention dropping to 0.25% 12 months post-closing.
  - Sponsors have been more resistant to sharing costs relating to this incremental coverage.

Key Transaction Terms – Closing Conditions & Tax Covenants

CONSIDERATION	COMMENTS
Customary Closing Conditions	• **General:** Generally, the closing conditions are more limited than those in a purchase agreement to directly acquire a portfolio company. • **Customary Examples of Closing Conditions:** – Receipt of all anti-trust/competition approvals. – Bring-down of representations and warranties, subject to agreed materiality standards. – While not in a majority of transactions, no material adverse effect on the portfolio company between signing and closing. – No portfolio company is in default of any financing arrangement, nor is any portfolio company reasonably expected to be in default. – Required approval of applicable limited partners. – Required level of financial commitment by sponsor. – Tax forms/certifications required to reduce/eliminate FIRPTA/ECI withholding. – Minimum sell-volume condition. – No law, order or litigation that would restrain or challenge the transaction.
Tax Covenants	• 754 election. • Push-out election for pre-closing partnership tax liabilities imposed on audit.

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IV. Key Fund Terms & Considerations

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Key Fund Terms – Expense Sharing

CONSIDERATION	COMMENTS
Expense "Buckets"	
► **Seller Expenses**	**Not typically borne by Continuation Fund:** • LPA amendments; LPAC consents; LP CIM & Election Forms • Fairness or valuation opinions • Placement agent and professional advisor fees and expenses to the extent relating to the M&A transaction • Transfer taxes relating to pre-transaction restructuring
► **Continuation Fund Expenses**	**Often borne by Continuation Fund:** • Organizational expenses (typically subject to a cap) • Lead investor expenses (typically subject to a cap) • Placement agent fees relating to new commitments to the Continuation Fund (subject to management fee offset)
► **50-50 Expenses**	**Often split in an equitable manner (e.g., 50/50) between Sellers and Continuation Fund:** • Portfolio company transfer expenses • Regulatory expenses (e.g., HSR filings) • ***Transaction agreement negotiation*** • Cost of rep and warranty insurance • Transfer taxes relating to "sold" interests

Key Fund Terms – Commitments

CONSIDERATION	COMMENTS
Allocation Waterfall	• Minimums & Maximums • Handling Excess Sell Side Demand
Purchase Price Commitment	• Purchase Price Adjustments: – Cash Flows – Portfolio Fees • Deferred Consideration • Earnouts
Unfunded Commitments	• Follow-On Investments – Status Quo/Dilution – Preemptive Rights – LPAC/Lead Buyer Consent Rights • Expenses: – Inside or Outside Commitments – Capped vs. Uncapped – Payment of Expenses for Status Quo
Sponsor Commitment	• GP Rollover & Unfunded

Key Fund Terms – Economics & Governance

CONSIDERATION	COMMENTS
Distribution Waterfall	• Carried Interest • GP Clawback & Guarantees • Historical Clawbacks? • RWI Proceeds & Expenses – Inside or Outside? • Tax distributions on Rolled Interests (i.e., 704(c) allocations)
Management Fee	• Will New Investors & Rollers pay the same management fee? – If not, will Rollers receive any offsets? • How will the management fee be calculated? • Termination
Indebtedness; Recycling & Reinvestment	• Appropriate? • If so, consider caps, timings and uses
Governance	• Voting • Preemptive Rights • Minority Protections

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Key Considerations in GP-Led Credit Continuation Funds

CONSIDERATION	COMMENTS
Purchase Price Adjustments	• Establish appropriate inflow and outflow adjustment mechanics • Impact of purchase price adjustments on closing timeline alignment
Leverage and Recycling	• More common than in equity deals • Impacts execution, risk profile, and deal size
Conflict Resolution & Governance	• LPACs are less common in credit; many rely on independent directors • Consider appropriate conflict approval party

Key Considerations in GP-Led Credit Continuation Funds

CONSIDERATION	COMMENTS
Cross-Capital Structure Exposure	• Sponsors often hold different debt instruments of the same borrower through multiple funds • Raises conflict concerns in workouts, exits, and future financings
Limited Asset-Level Representations	• Credit assets often come with fewer asset level reps and warranties
Transfer Restrictions & Operational Hurdles	• Credit positions may require agent, borrower, or lender consents • Participation agreements may be needed to expedite closings or for follow-on investments of the CV
Tax & Structuring Considerations	• Mitigate risk that the continuation fund is treated as originating loans or engaged in a "US trade or business" • Consider approach to acquiring recently worked out assets • Ongoing ECI / US trade or business considerations in the continuation fund

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V. Key Considerations Around Structure

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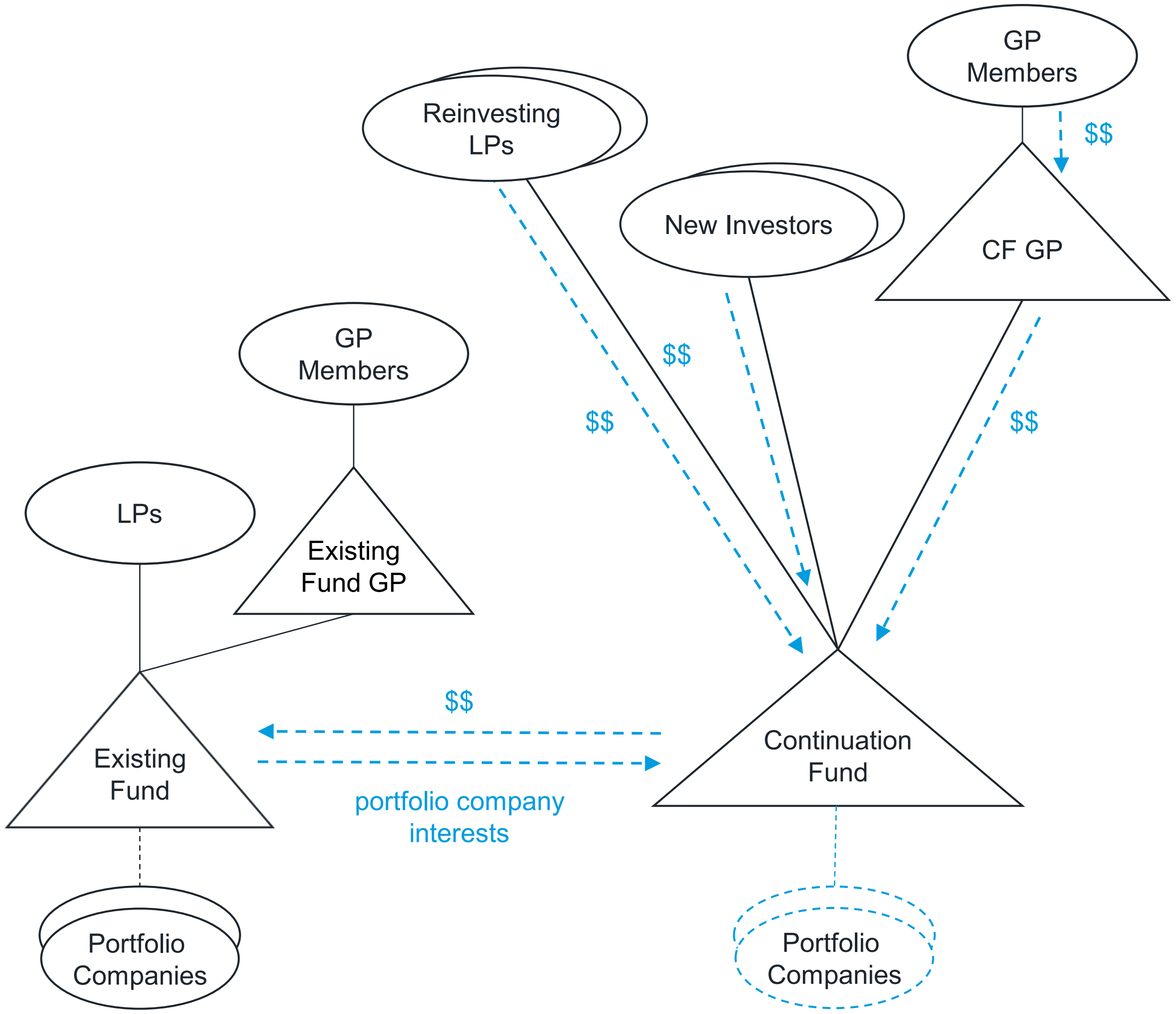
Structuring Continuation Funds

- Existing fund structure
- Portfolio company holding structure
- Life cycle of selling funds
- Sponsor goals
- Whether pre-closing restructurings are needed
- Regulatory considerations
- Tax considerations
- And many more…

Cash Sale Structure

- **Pros**
  - Simplicity.
  - Taxable to investors.

- **Cons**
  - Taxable to investors.
  - Restarts holding period.
  - Cashflow issues for reinvesting LPs.



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Reinvestment Options

Simpler

More Complicated

Round Tripping Cash

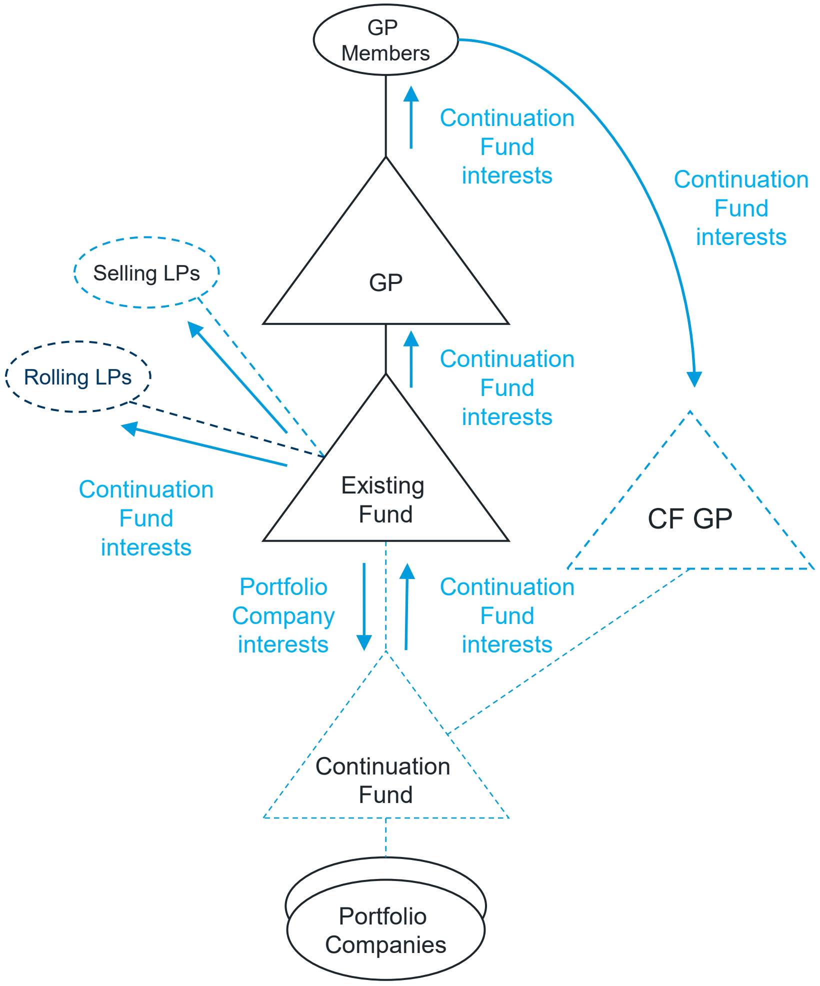
Promissory Notes

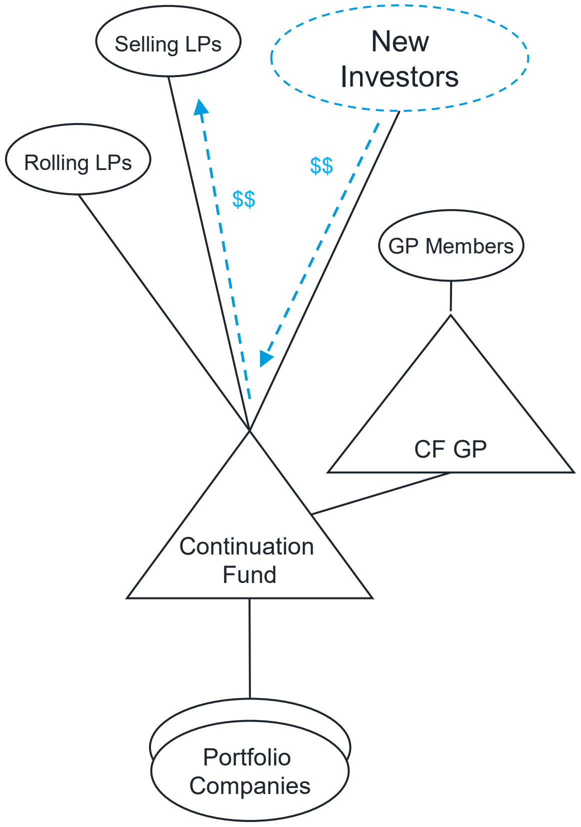
Payment Directions

Tax Free Rollover

Traditional ("Disguised Sale") Structure

- **Pros**
  - Tax-free rollover.
  - Tacked holding period.
- **Cons**
  - Complexity.
  - Withholding tax considerations.
  - QSBS impact.





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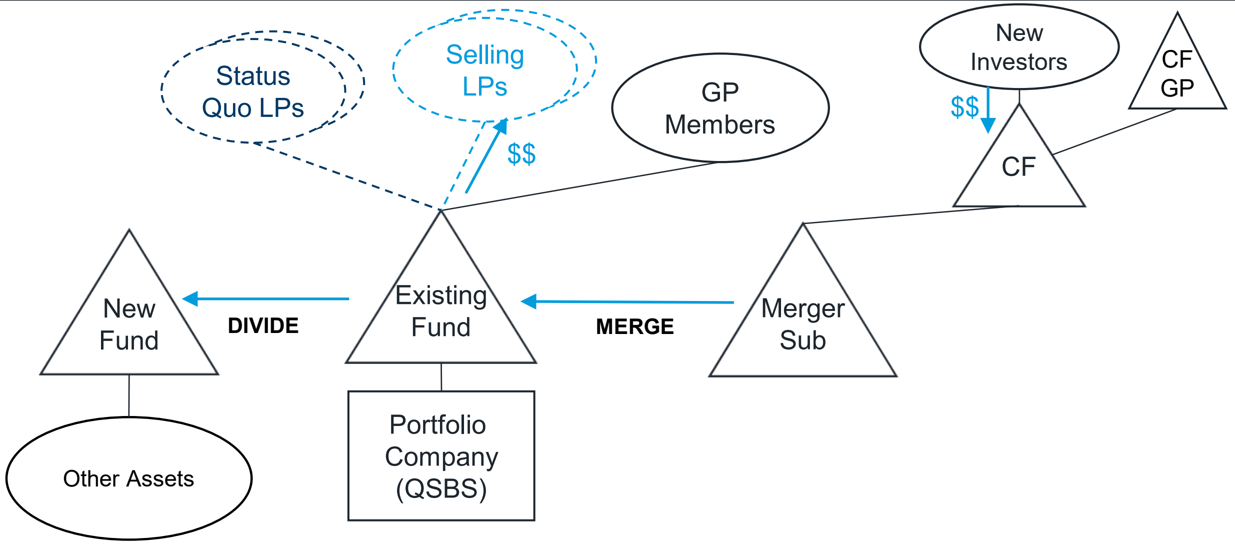
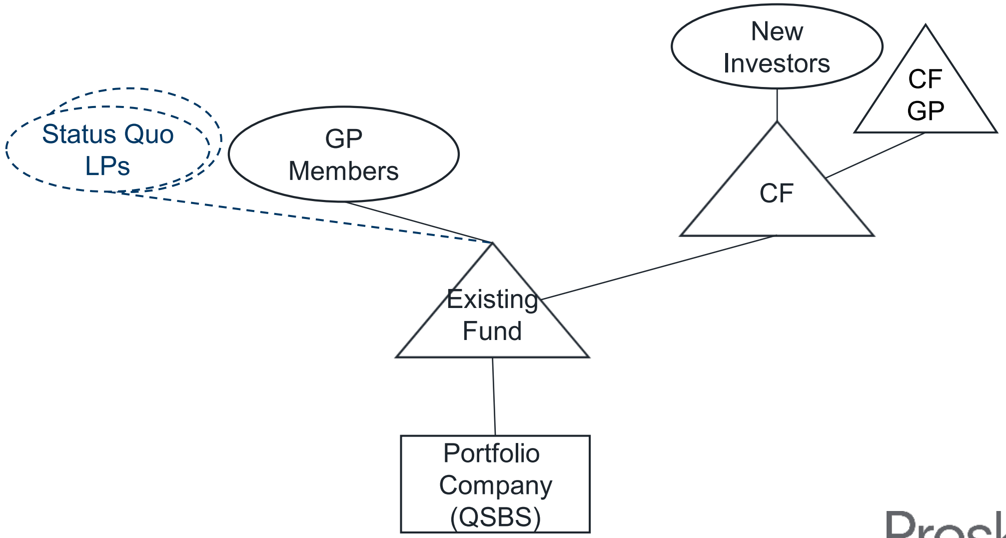
Division and Merger Structure (a QSBS Solution)

- **Pros**
  - Preserve “qualified small business stock” (QSBS) status for all rollers.
  - Can be combined with disguised sale structure for non-QSBS.

- **Cons**
  - Complex.
  - Restarts holding period.





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How Blockers Can Impact Economics

- **Corporate tax on sale of target assets out of the blocker.**
  - Up to 44.7% tax drag (based on current tax rates).

- **Assessing the issue:**
  - Magnitude of unrealized gain, earning and profits (E&P) or losses in the blocker.
  - Size of new investor group / syndicate that wants to acquire blocked interests.
  - Size of blocked interest being acquired relative to total transaction value.
  - Ability of new unblocked investors to make future investments/follow-on investments unblocked.

- **Protections for new investors:**
  - Blocker sale covenants.
  - Sponsor alignment
    - Carried interest above the blocker (i.e., sponsor bears its share of any blocker taxes)
    - New investment by sponsor-managed flagship fund
  - Limited consent rights over asset sales
  - Purchase price discount

Questions?

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Secondaries School
Continuation Funds

First for Market Insights
New York
June 2025

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Proskauer's Secondaries Pulse Check Report

Trends in the Terms of Secondaries Transactions

Strategic Planners
Deal Closers
Reputation Protectors
Award Winners
Precedent Setters
Legal Innovators
Trusted Advisors
Forward Thinkers
Boundary Breakers
Problem Solvers
Community Leaders
Progress Makers

Executive Summary

Proskauer's Secondaries Pulse Check data benchmarks a variety of secondaries transaction terms, including key legal, economic and governance provisions, across 91 traditional LP secondaries transactions and 61 GP-led deals. The data covers transactions closed between the third quarter of 2023 and the third quarter of 2024, providing key insights into how terms are changing over time and the market shifts we anticipate moving forward.

The analysis and related commentary reflect our experience from representing sponsor, buy-side and sell-side clients, providing a unique insight into the market from all angles.

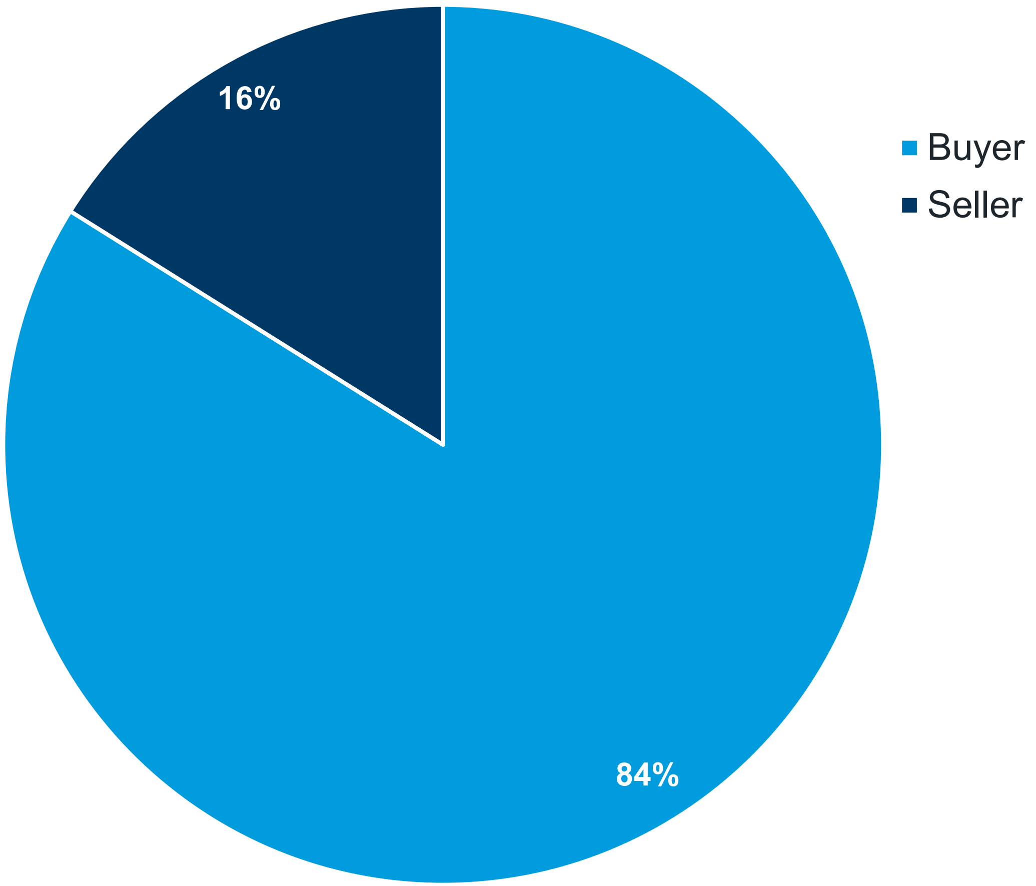
Proskauer's Secondary Transactions and Liquidity Solutions practice continues to monitor the evolution of the secondaries market, offering our clients data-driven insights to aid their transactional and fundraising needs.

Contents

Section 1:
Traditional LP Secondaries Transactions

Party Represented

Of the 91 traditional secondaries transactions closed in the last year, Proskauer acted on the buy-side on 84% of occasions and acted on the sell-side for the remaining 16% of deals.



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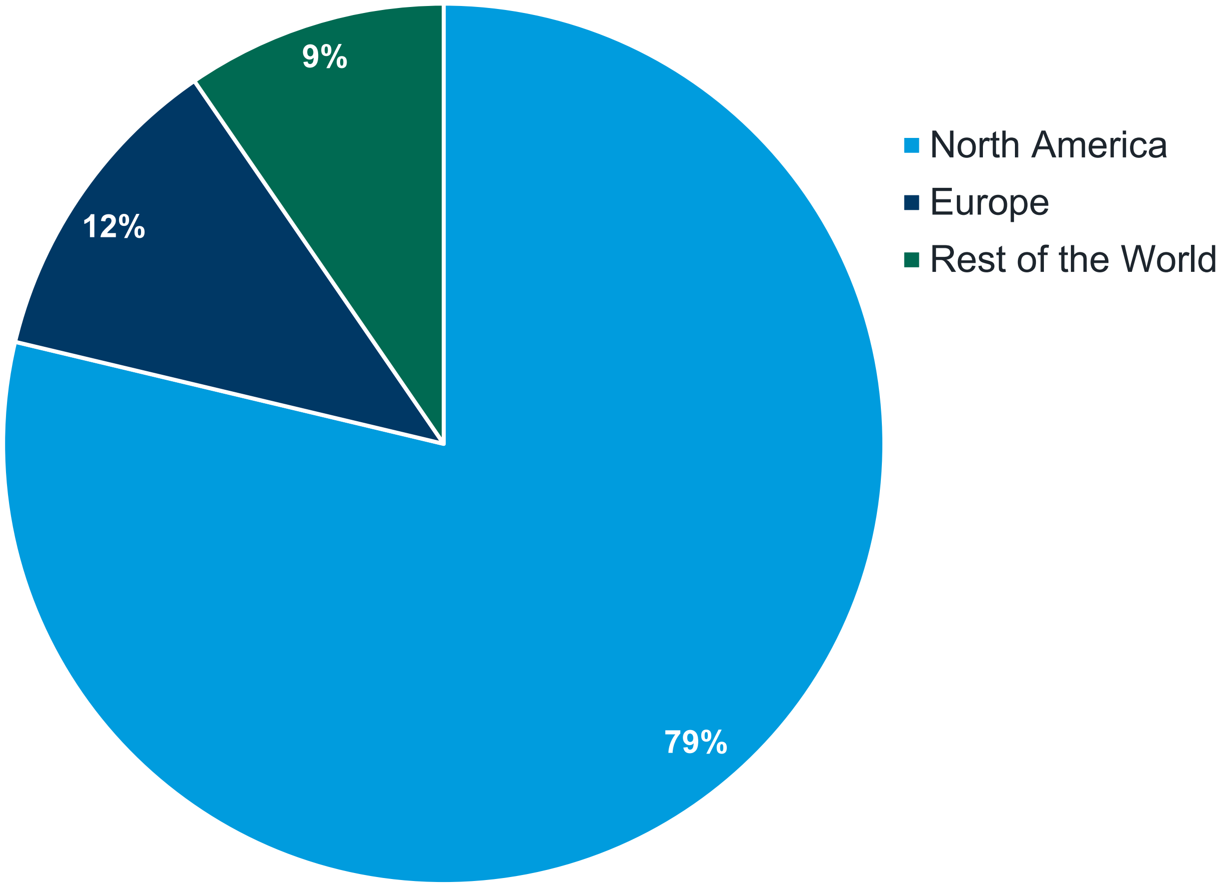
Buyer Legal Jurisdiction

Buyer geography remains predominantly North American-based, representing 79% of buy-side transactions.



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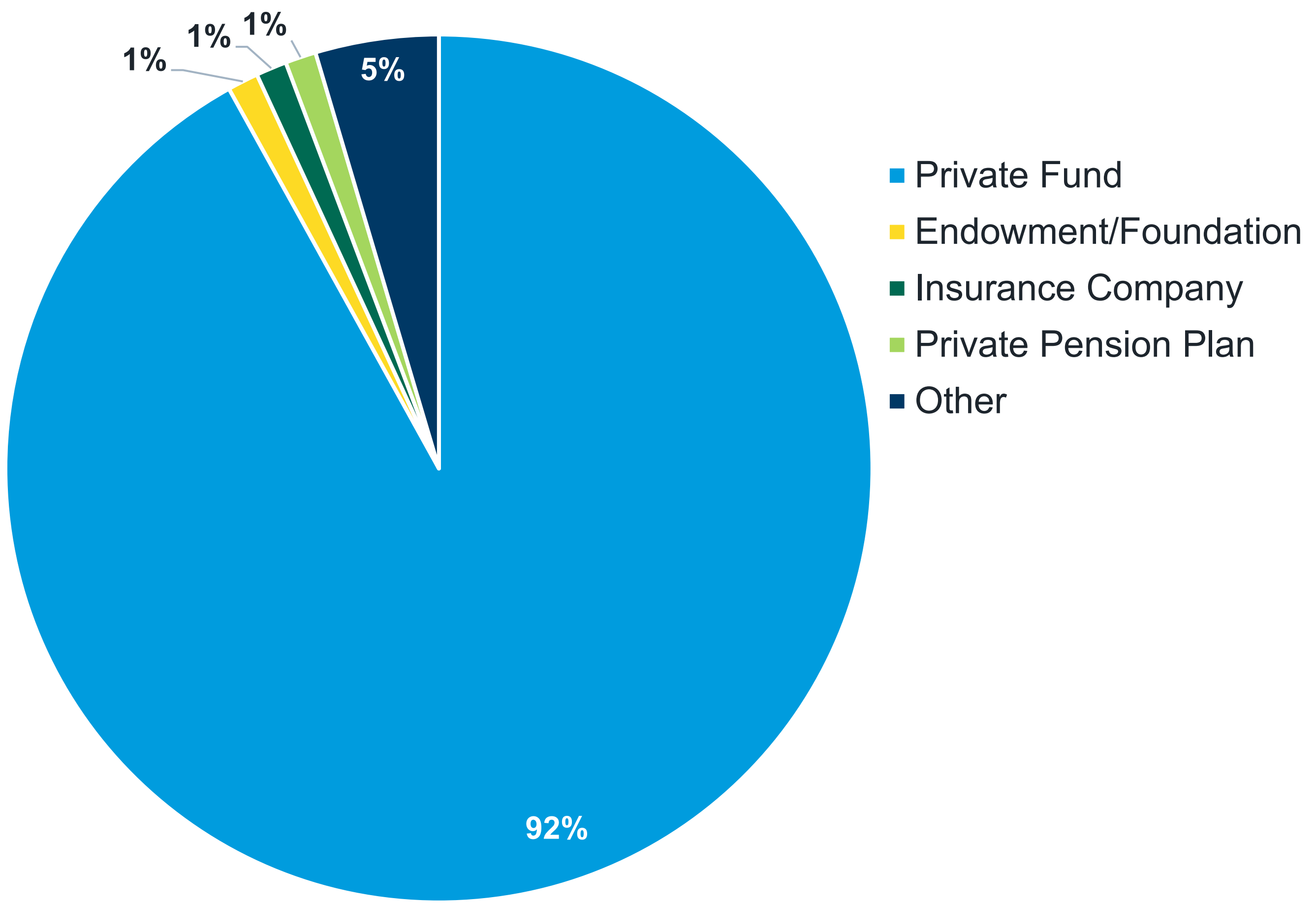
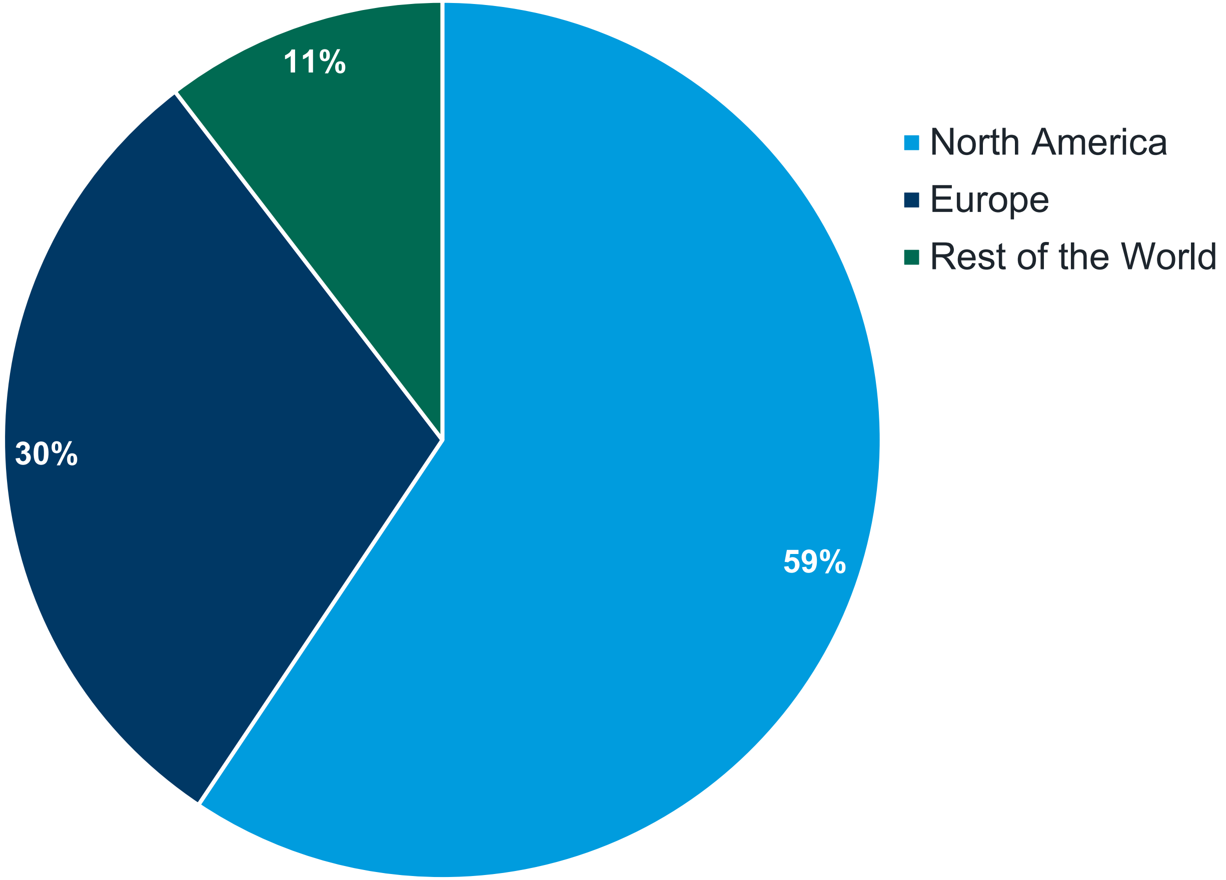
Buyer Type

Unsurprisingly, 92% of the traditional deals we worked on involved a secondaries funds as the purchaser. This figure is consistent with prior years.



Seller Legal Jurisdiction

We saw much more of a global influence in seller jurisdiction between Q3 2023 – Q3 2024. Prior years consistently reported approximately 70% of sellers based in North America.



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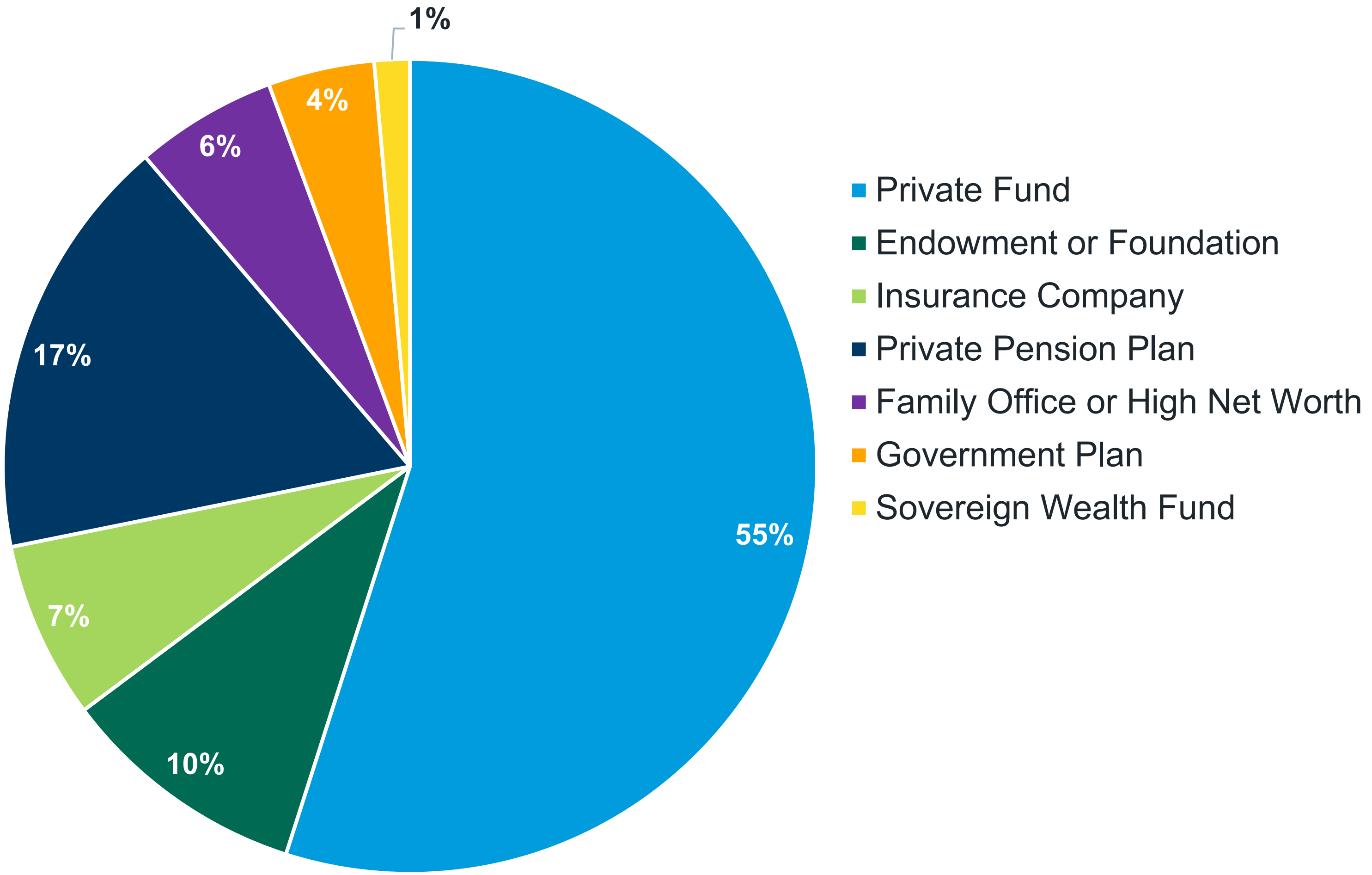
Seller Type

Sellers tend to cast a broader net in transaction work than buyers, as this chart illustrates. The past year featured private funds (55%), private pension plans (17%), endowments and foundations (10%) and insurance companies (7%) as the principal sellers.



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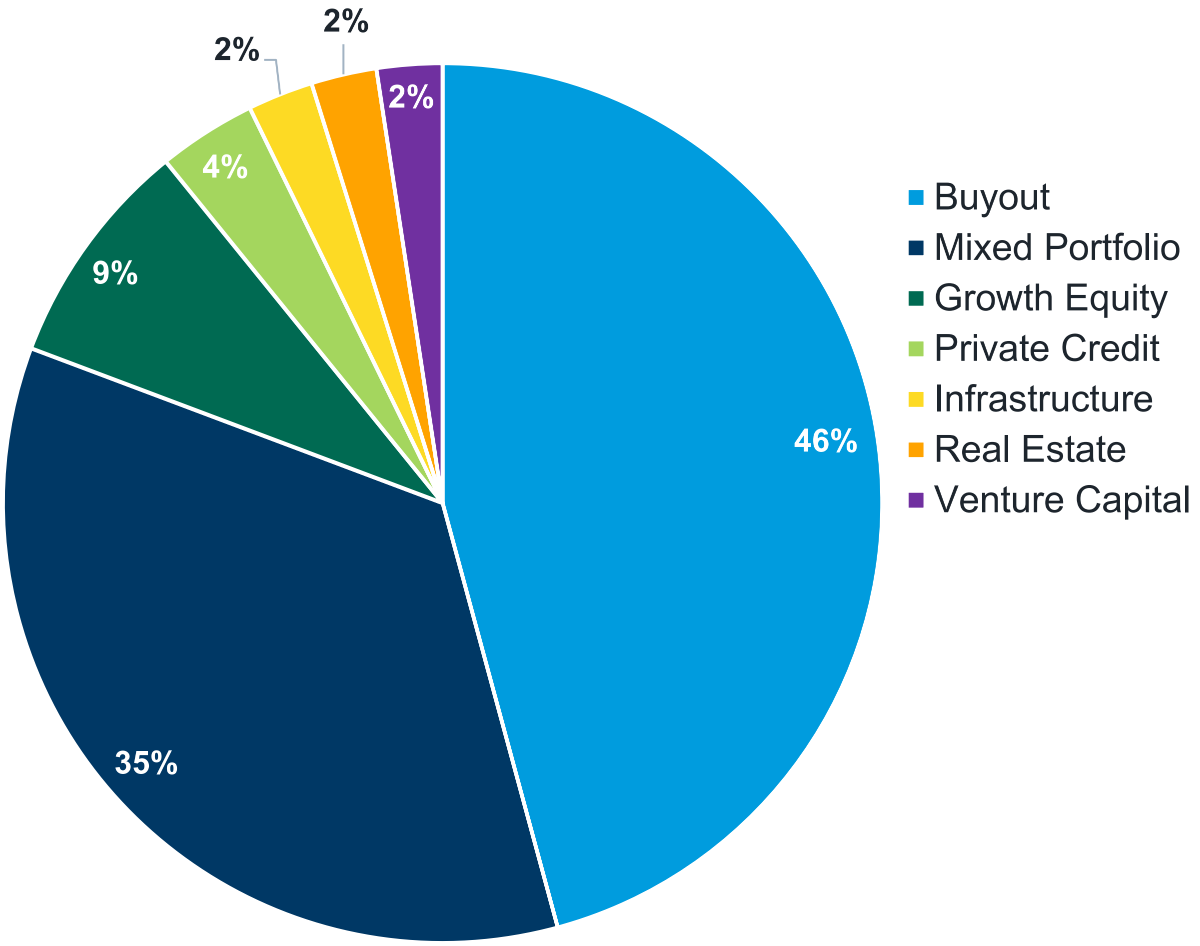
Primary Asset Class of Interests

Buyout portfolios accounted for 46% of traditional transactions. Private Credit, Infrastructure, Real Estate and Venture Capital portfolios accounted for 10% of transactions in the aggregate.



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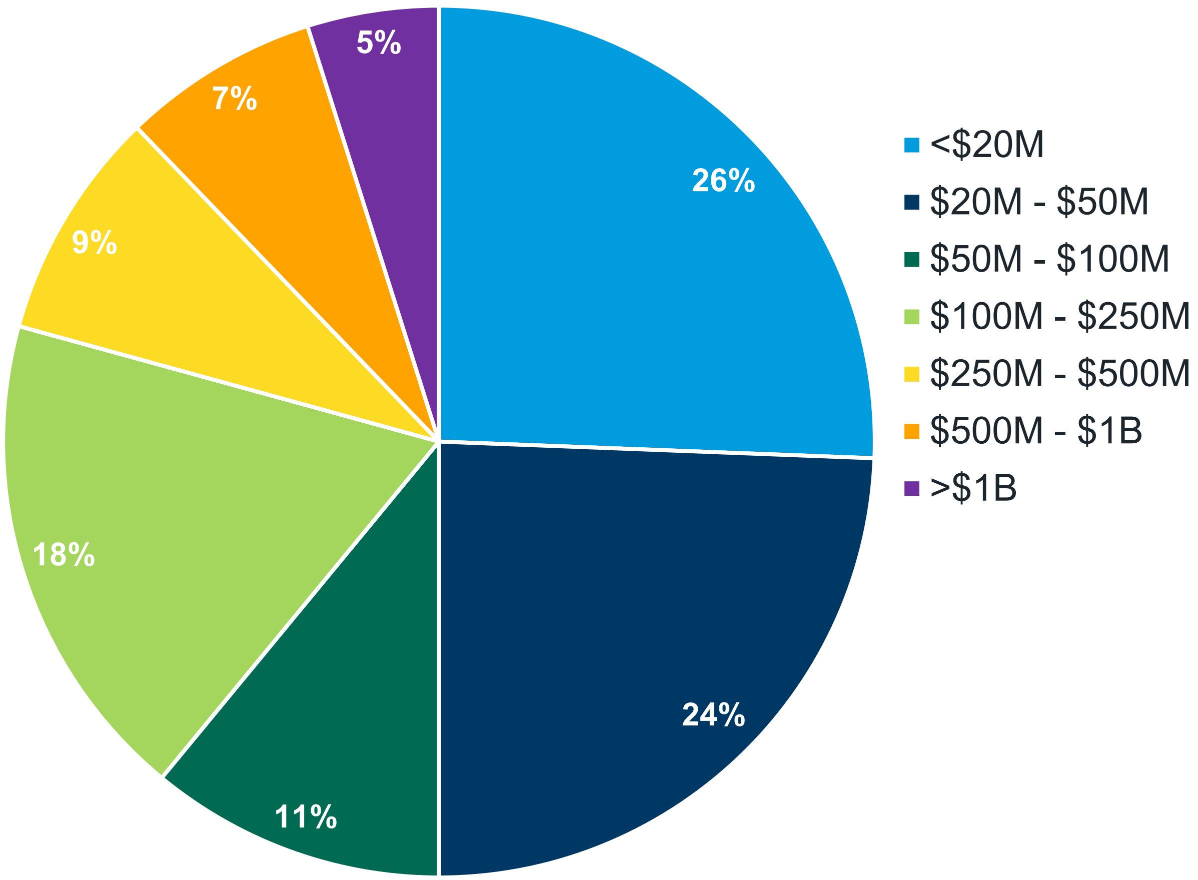
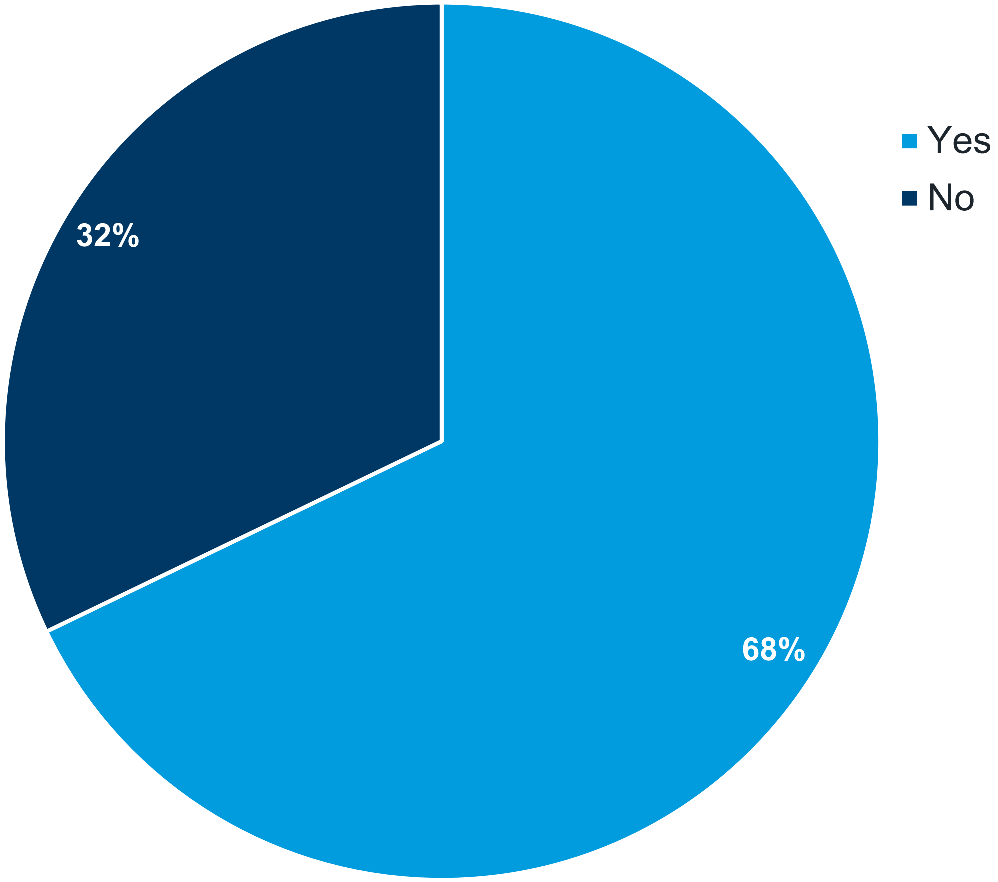
Size of Deal

Six deals involved portfolios in the $500 million-$1 billion range and five transactions saw portfolios traded with values in excess of $1 billion.

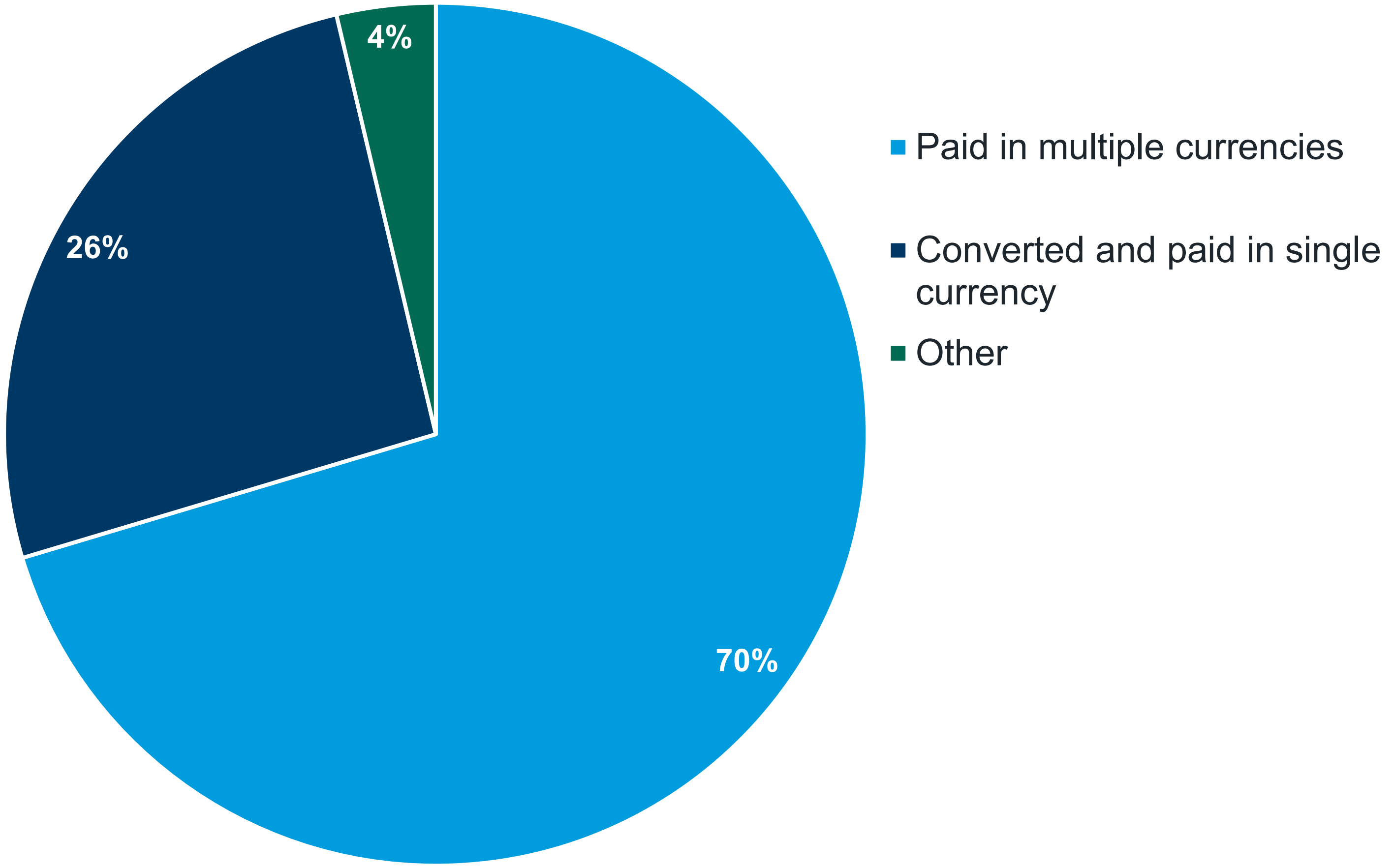


Multiple Currencies?

The ratio of multi-currency deals has significantly increased, given only 9% of the 55 deals reviewed between Q3 2022 – Q2 2023 were multi-currency, whereas this survey shows 68% of the 91 deals between Q3 2023 – Q3 2024 involved multiple currencies.

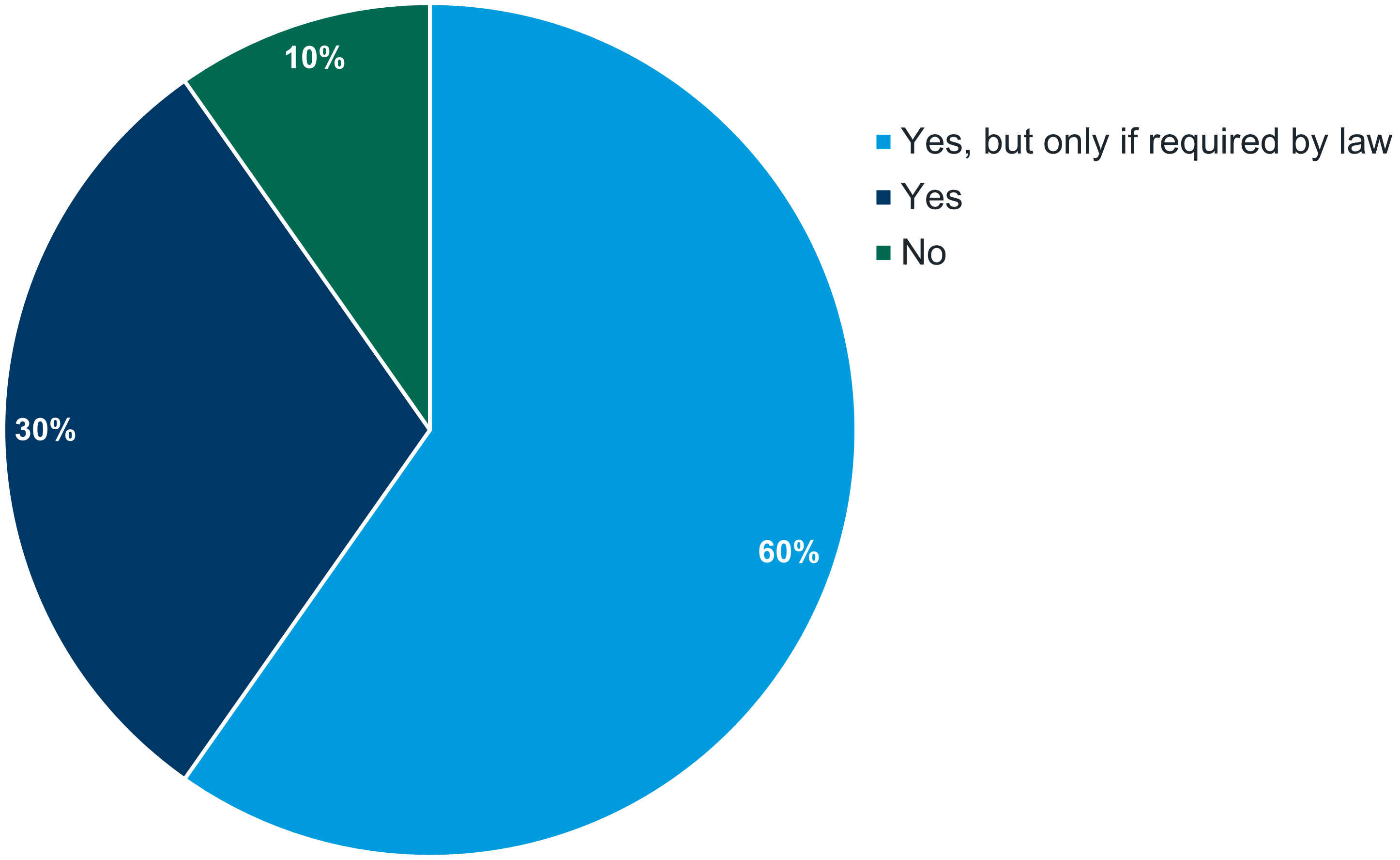


If Multiple Currencies, Purchase Price Paid in Multiple Currencies or Converted?



Purchase Price Withholding

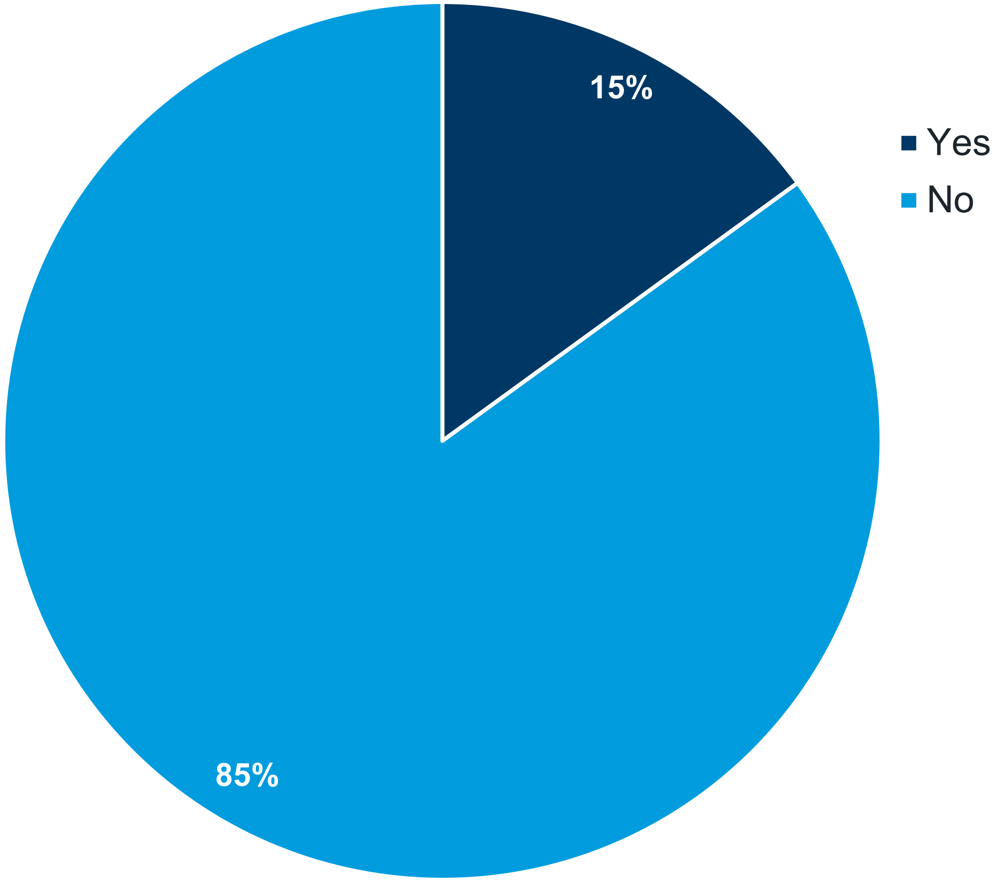
A heavily negotiated topic is whether a buyer is permitted to withhold from the payment of the purchase price, which requires careful tax due diligence to determine whether withholding is applicable.



Proskauer

Purchase Price Deferrals

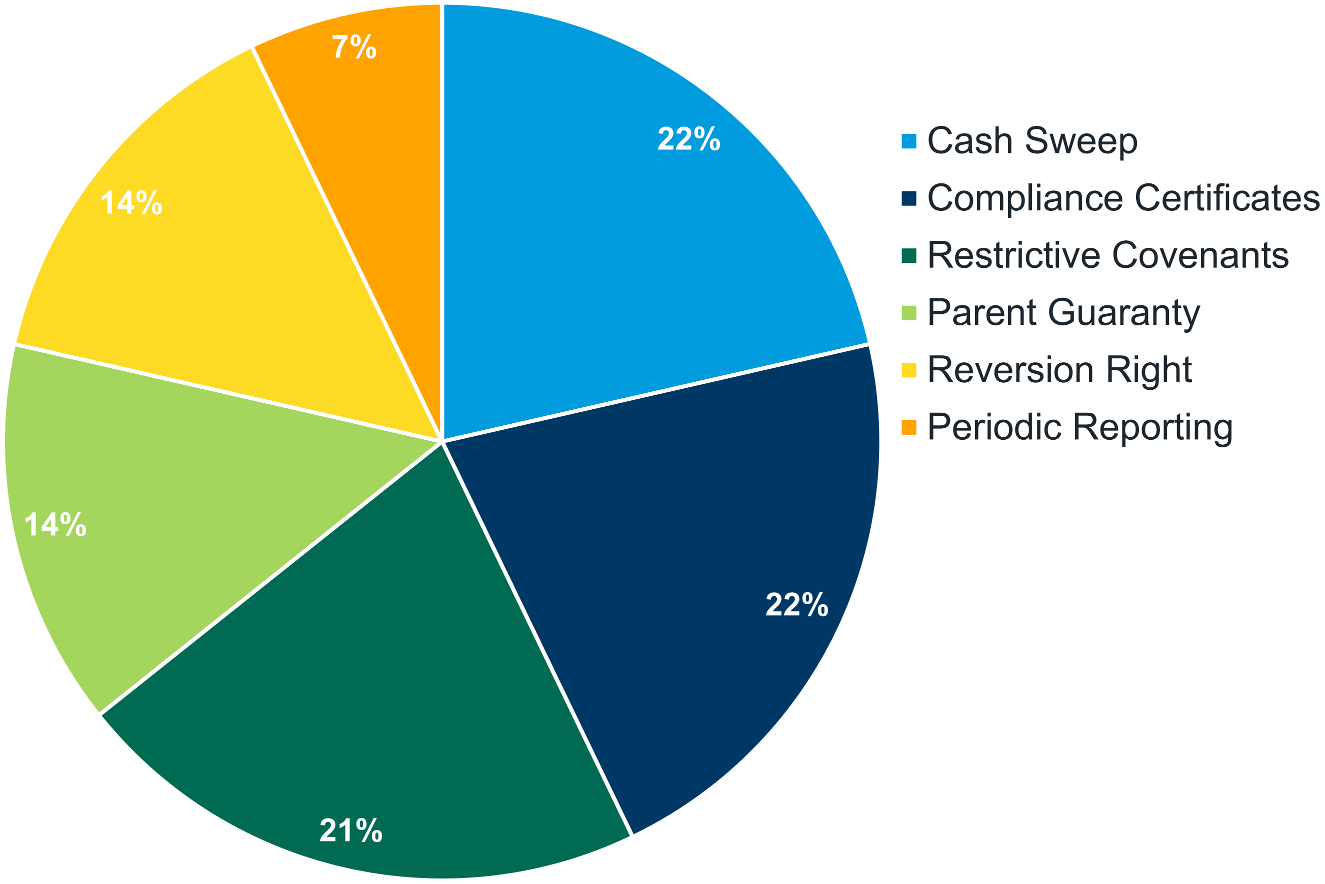
15% of our most recent deals involved a deferral of a portion of the purchase price, meaning the seller would not have received the full consideration at closing, but is likely to receive a better overall price.



Proskauer

If Deferred Purchase Price, Payment Assurances?

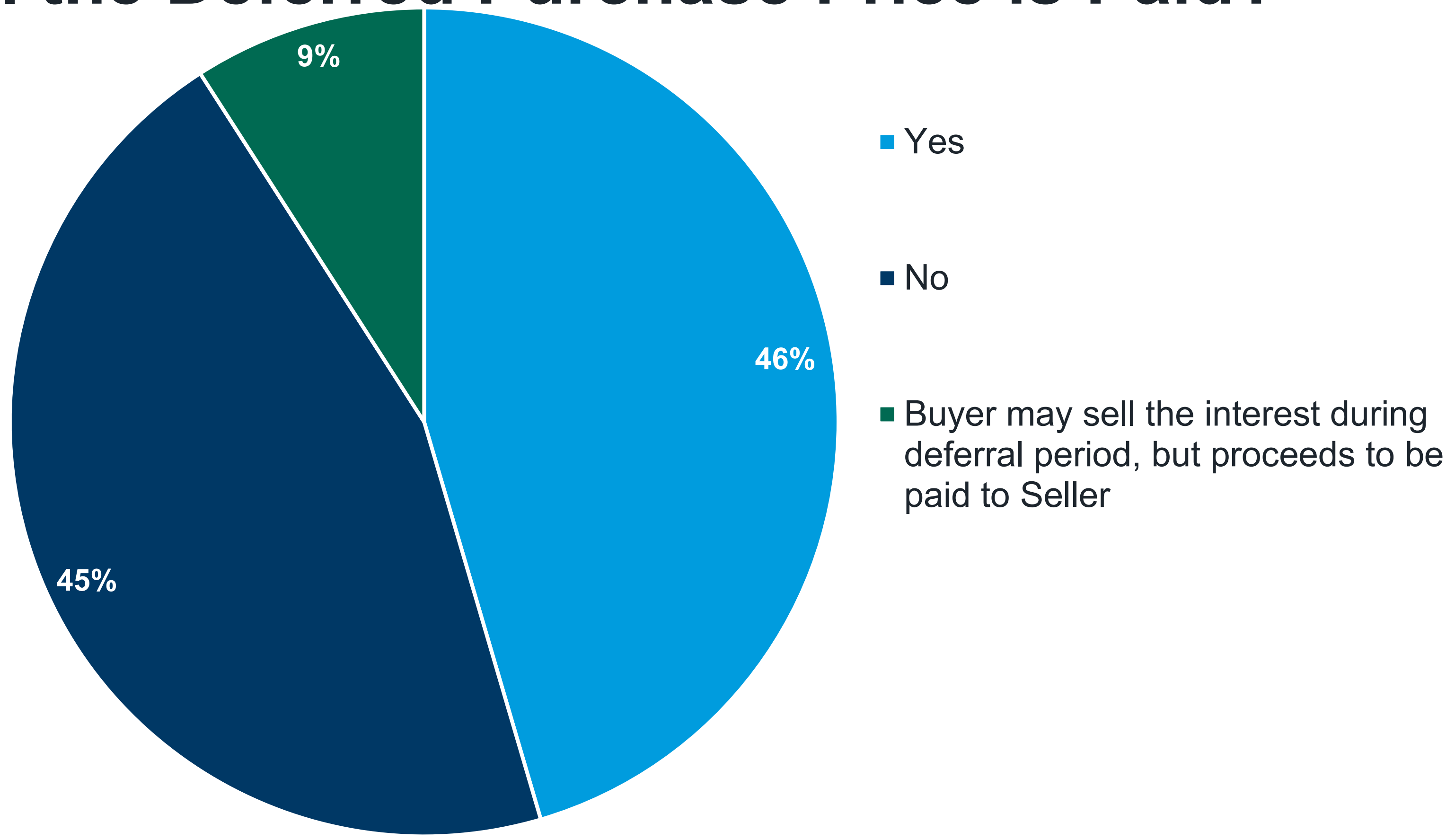
Sellers often request various protections from the Buyer that last throughout the deferral period. In prior surveys, a parent guaranty has been the most common form of security, but in this data set, it fell behind protections afforded by a cash sweep, compliance certificates, and restrictive covenants.



Proskauer

If Deferred Purchase Price, Are there Restrictions on Sales/Transfers until the Deferred Purchase Price is Paid?

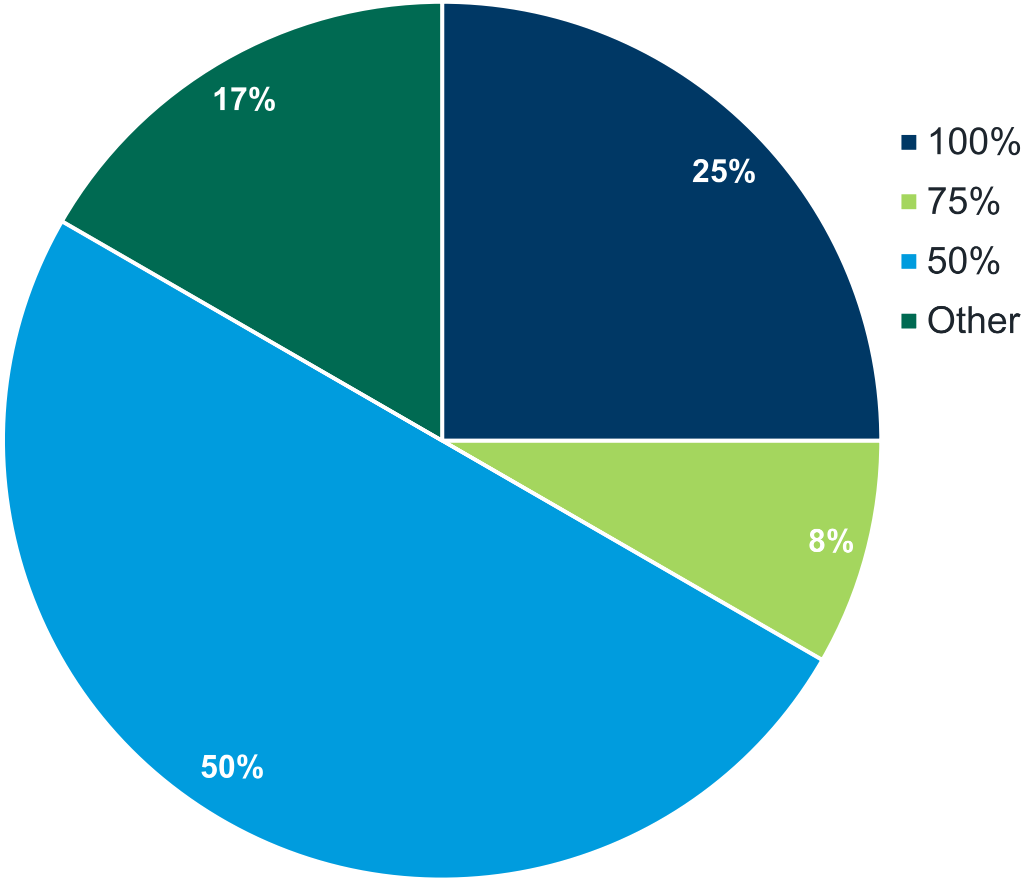
We found that there's a near-even split amongst restrictions on sales/transfers during the deferral period.



Proskauer

If Deferred Purchase Price, Percentage Deferred?

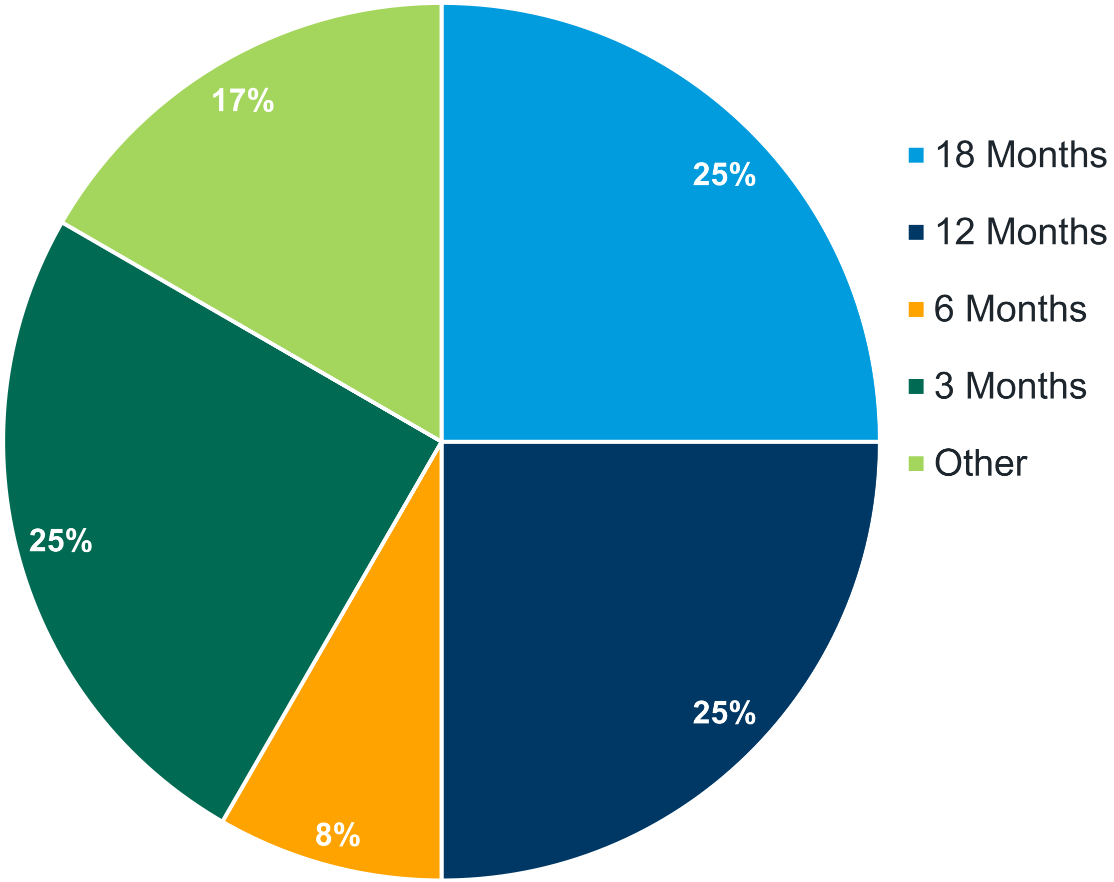
We had almost identical responses in our last two surveys with exactly 50% of purchase price deferrals involving a 50% deferral of the purchase price.



Proskauer

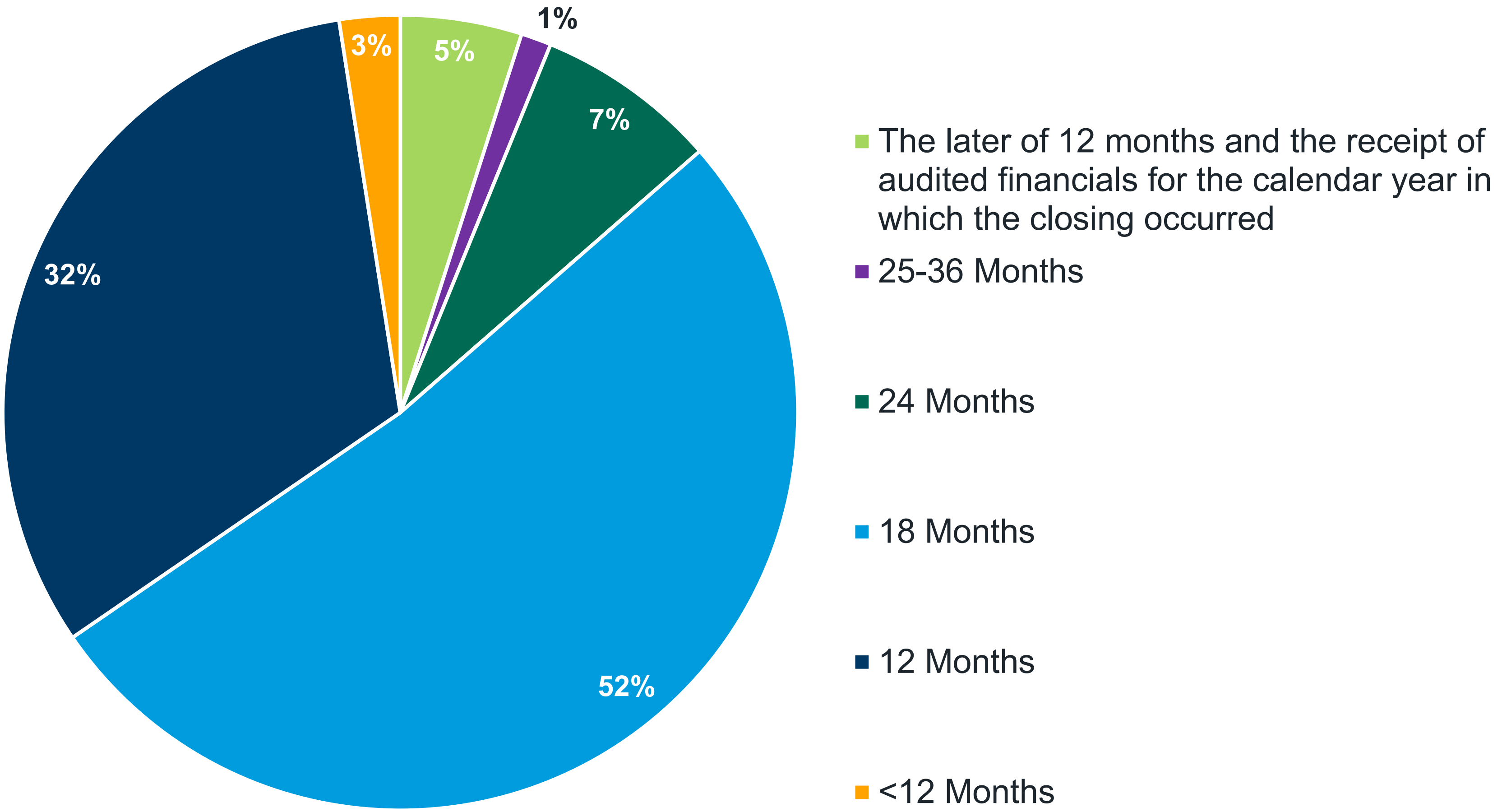
If Deferred Purchase Price, Length of Deferral?

Our prior survey showed a clear trend with the most common deferral period being 12 months. Over the past year, however, we saw an even number of deals containing deferrals of 18 months, 12 months and three months, each in 25% of cases.



Survival Period for General Reps

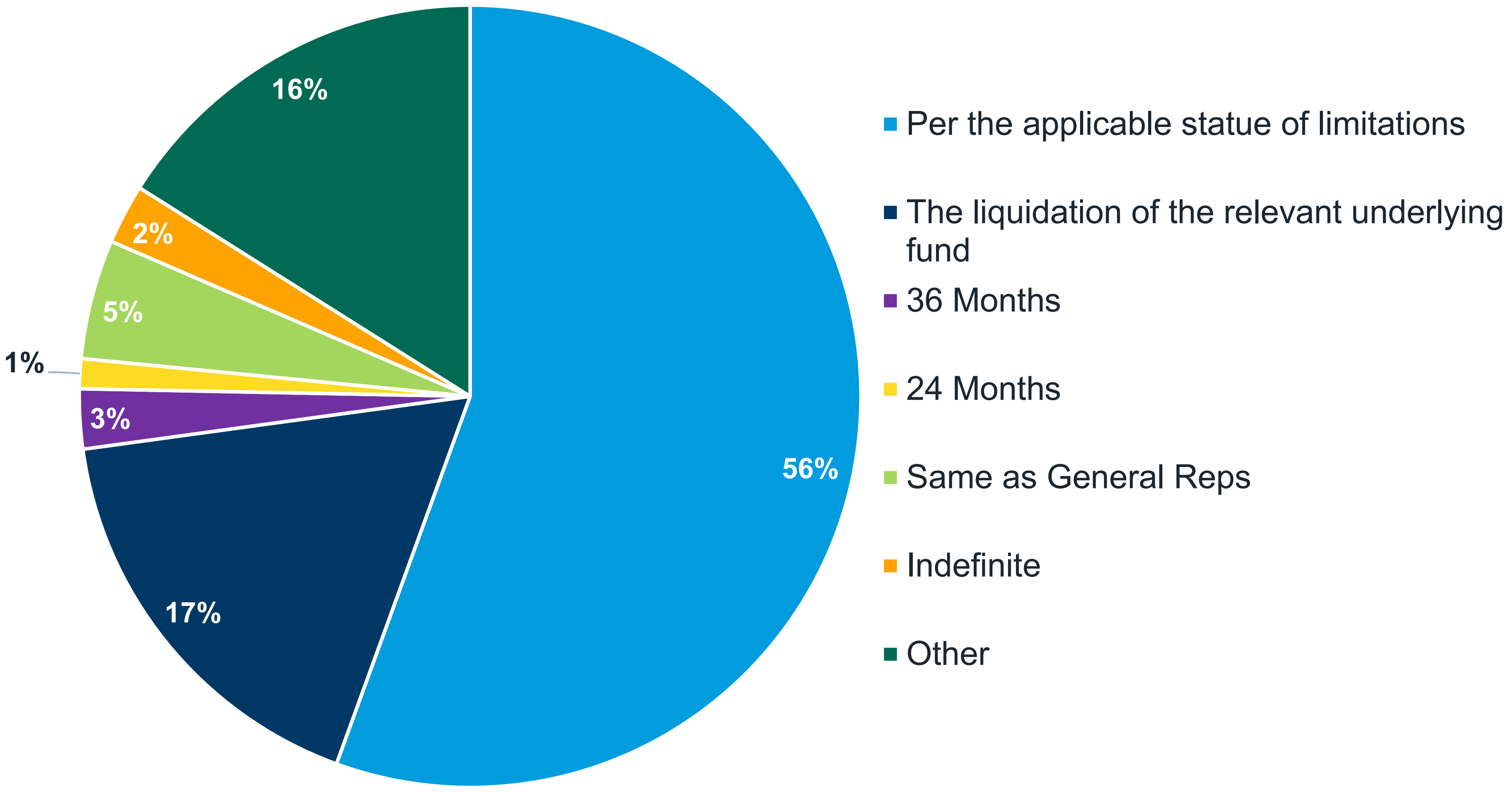
Regarding claims for breach of the general warranties, an 18-month survival period from the closing date was seen in 52% of deals and a 12-month survival period was seen in 32% of deals. Such percentages remain relatively consistent with data from our prior surveys.



Proskauer

Survival Period for Fundamental Reps

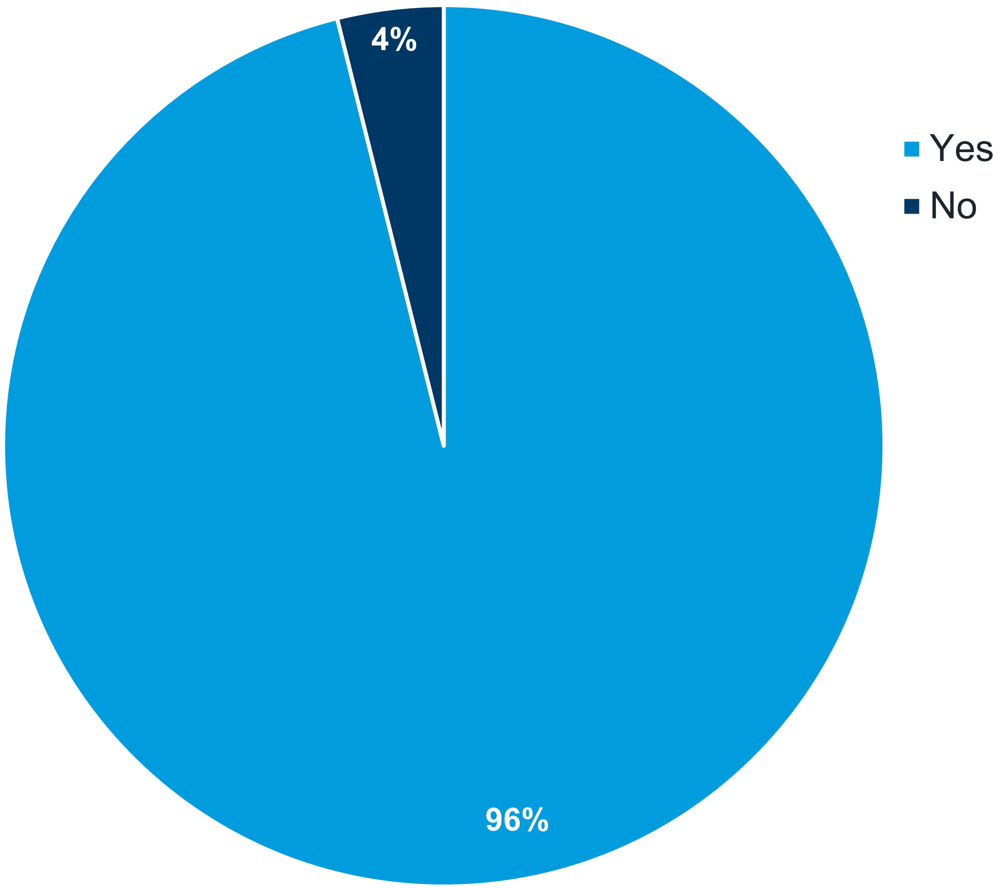
For fundamental warranties, 56% of deals saw the survival period tied to the expiration of the applicable statute of limitations and 17% of deals by reference to the liquidation of the underlying partnership.



Proskauer

Indemnity?

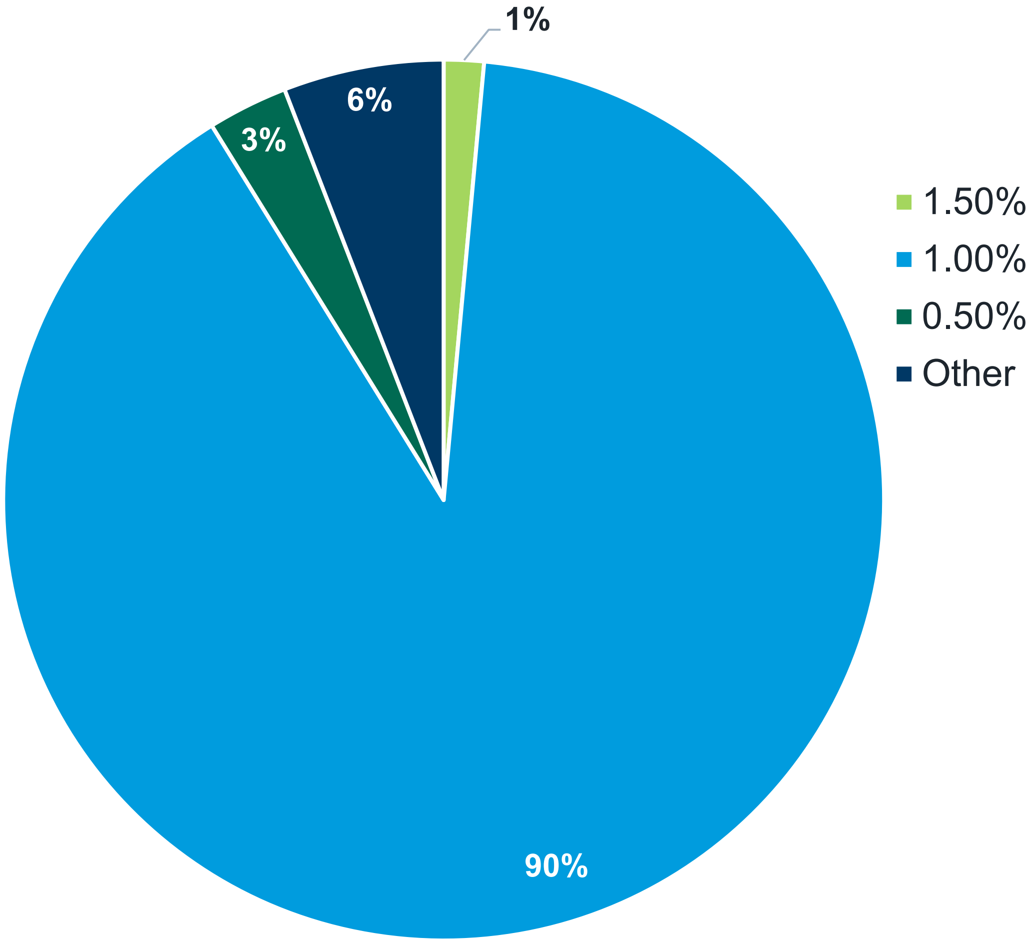
As is customary, 96% of secondaries sale and purchase agreements saw the parties granting one another an indemnity in respect of certain claims.



Proskauer

Indemnity Threshold

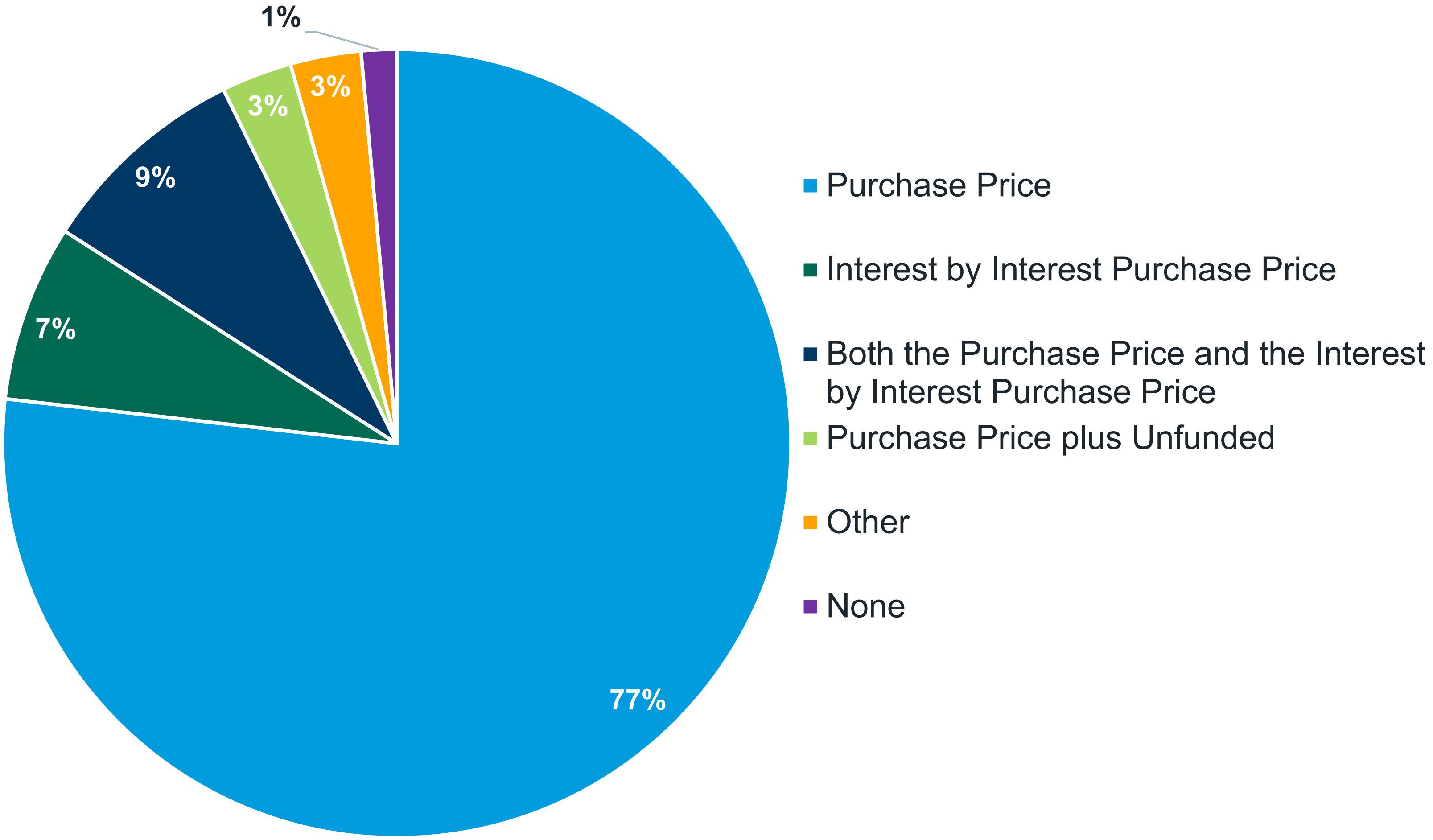
In 90% of deals (an 8% increase from our prior survey), the threshold for brining indemnity claims was set at 1.00% of the purchase price, which continues to be a relatively standard market position.



Proskauer

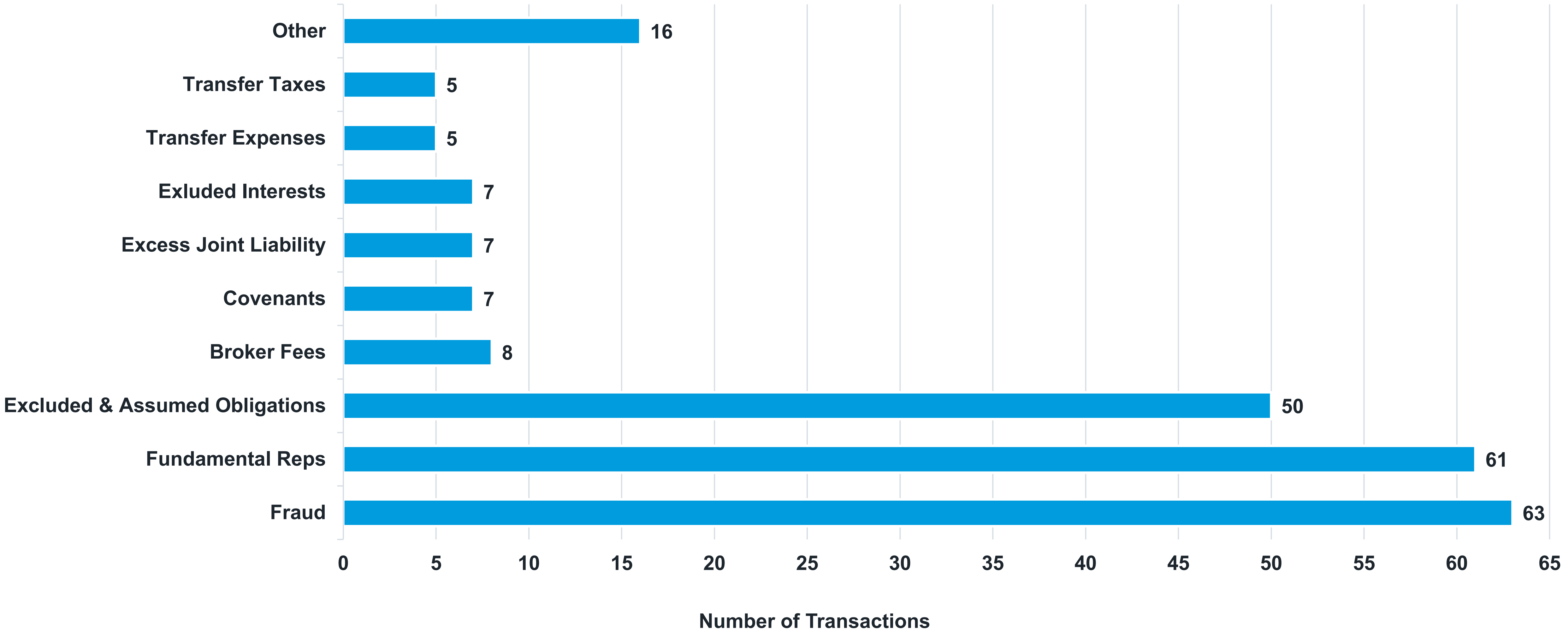
Indemnity Cap

With regard to an overall cap for indemnity claims – i.e., the maximum amount payable by one party to another – in 77% of cases this was set at the purchase price.



Proskauer

Carveouts to Financial Limitations



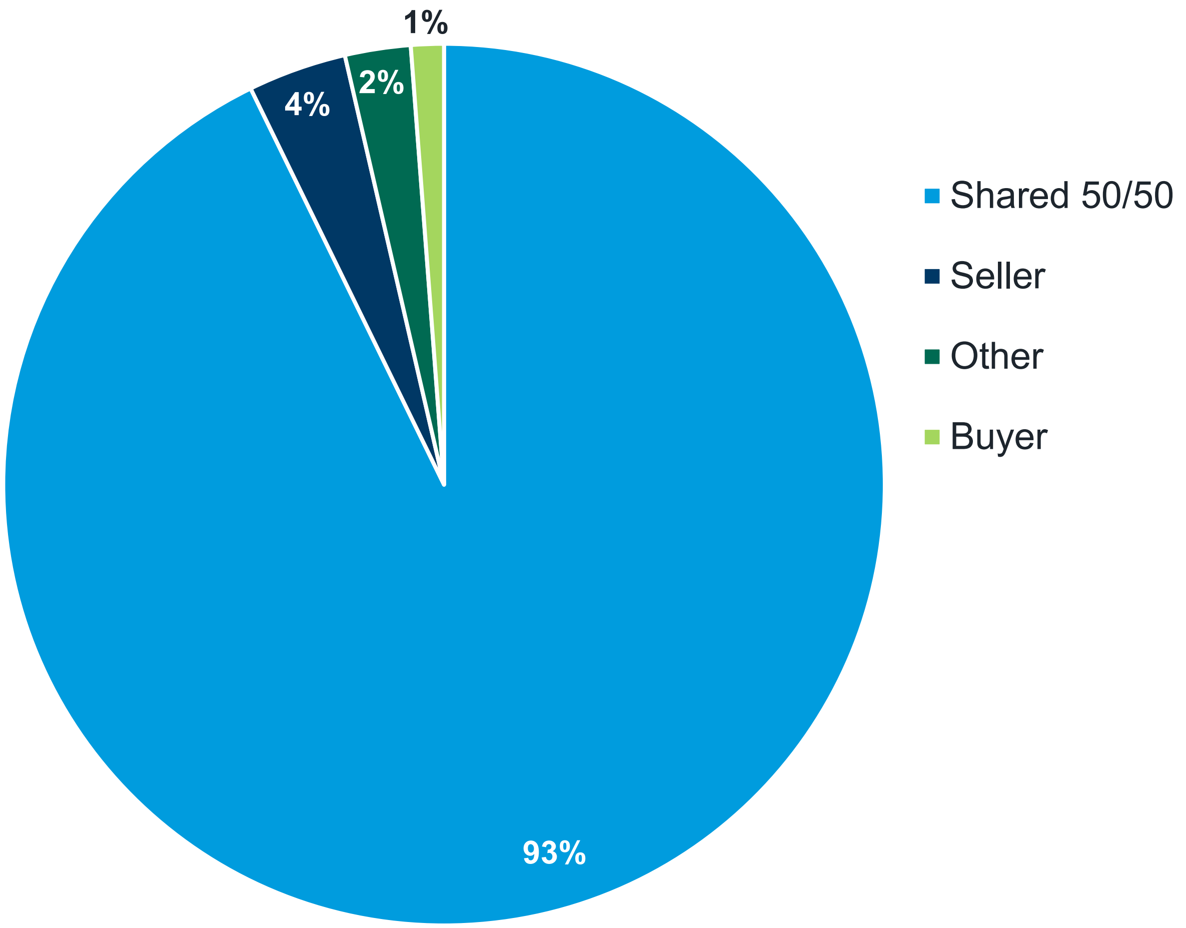
Proskauer

Excluded Obligations

Buyer Indemnity Type	Prevalence in Deals
Breach of Seller under the Portfolio Property Agreements	96%
Tax liabilities arising from or attributable to the holding of an Interest on or before the applicable Closing Date	95%
LP Clawback	92%
Obligations or liabilities with respect to the transferred interests which arise, accrue, relate or are otherwise attributable to the period prior to the Closing Date and result from the acts or omissions of Seller	78%
Obligations or liabilities relating to any Excluded Interest	64%
Obligations or liabilities of Seller other than those arising under the Portfolio Property Agreements	57%
Waivers or deferrals of carried interest	42%
Waivers or deferrals of management fees	31%
Obligations or liabilities with respect to the Interests pursuant to any document not disclosed by Seller to Buyer	18%
Transfer Expenses	11%

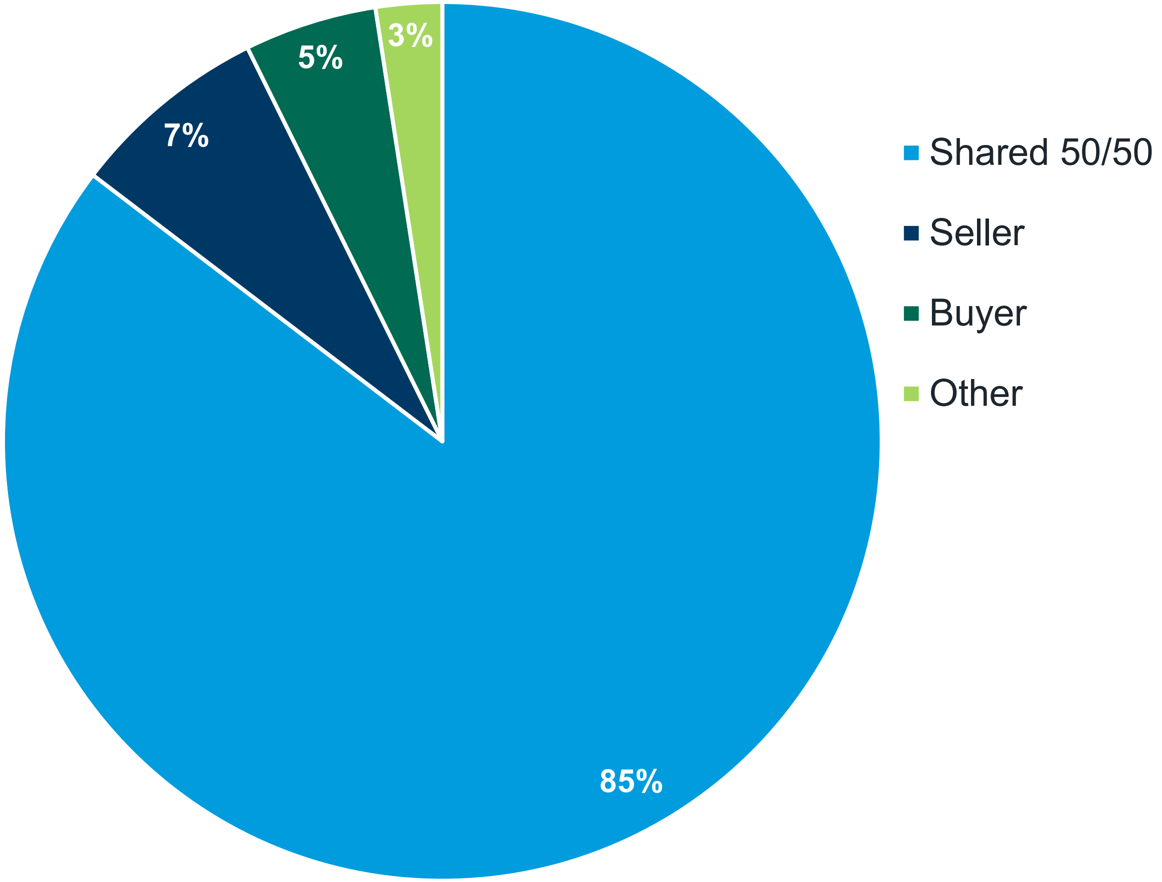
Transfer Expenses Borne by Which Party?

Transfer expenses charged by the underlying GPs to facilitate the transfers are regularly shared between the transferring parties on a 50/50 basis.



Transfer Taxes Borne by Which Party?

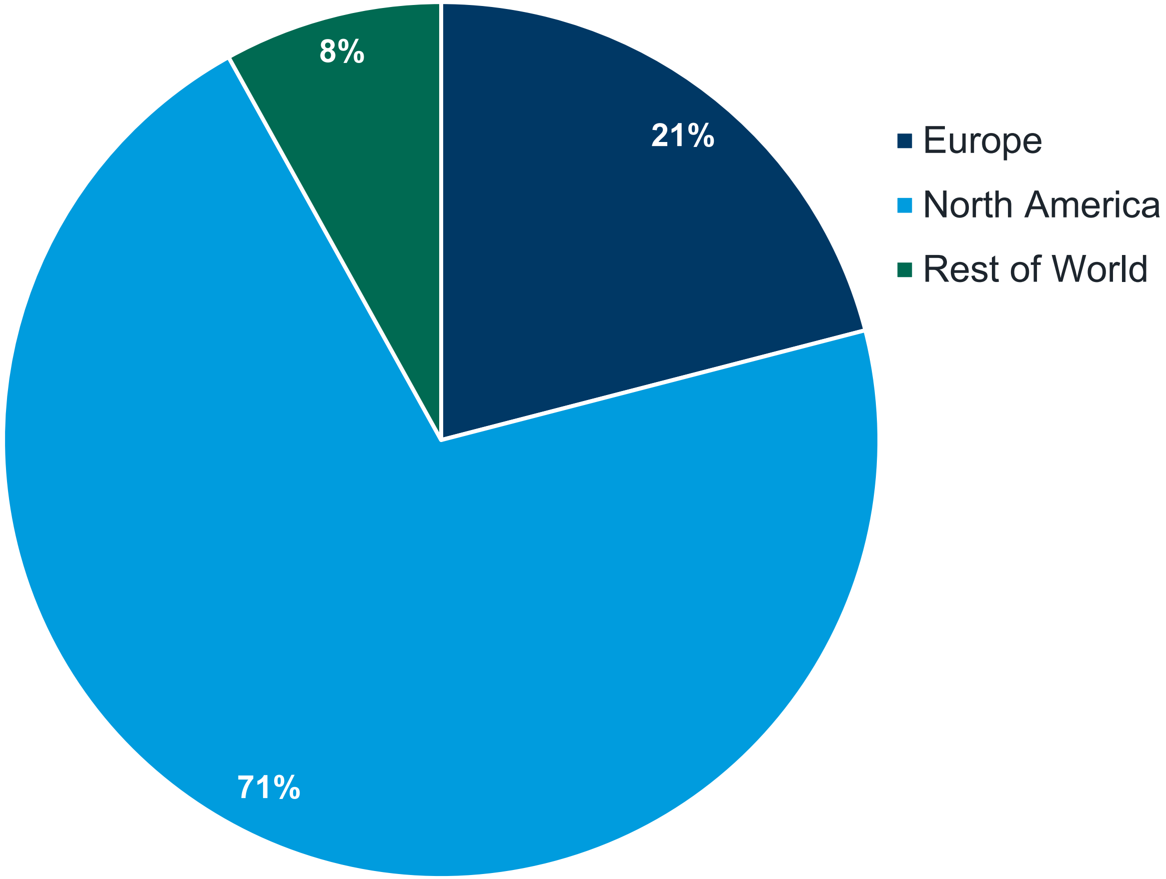
Transfer taxes, if any, are also most commonly shared equally between buyer and seller.



Section 2:
GP-Led Secondaries Transactions

Sponsor Geography

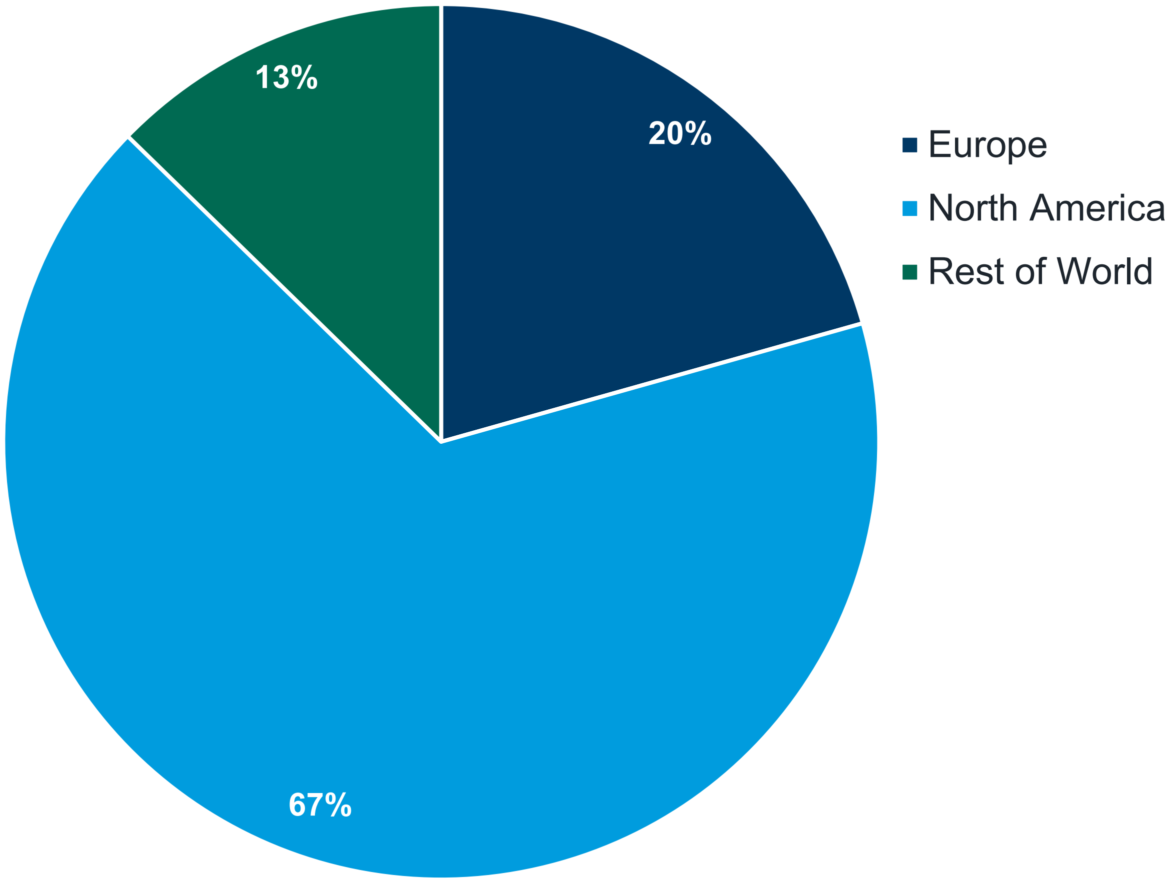
This chart highlights the principal jurisdiction of the sponsors, with the largest representations being North America (71%) and Europe (21%). We saw smaller percentages of sponsors based in other parts of the world.



Proskauer

Portfolio Geography

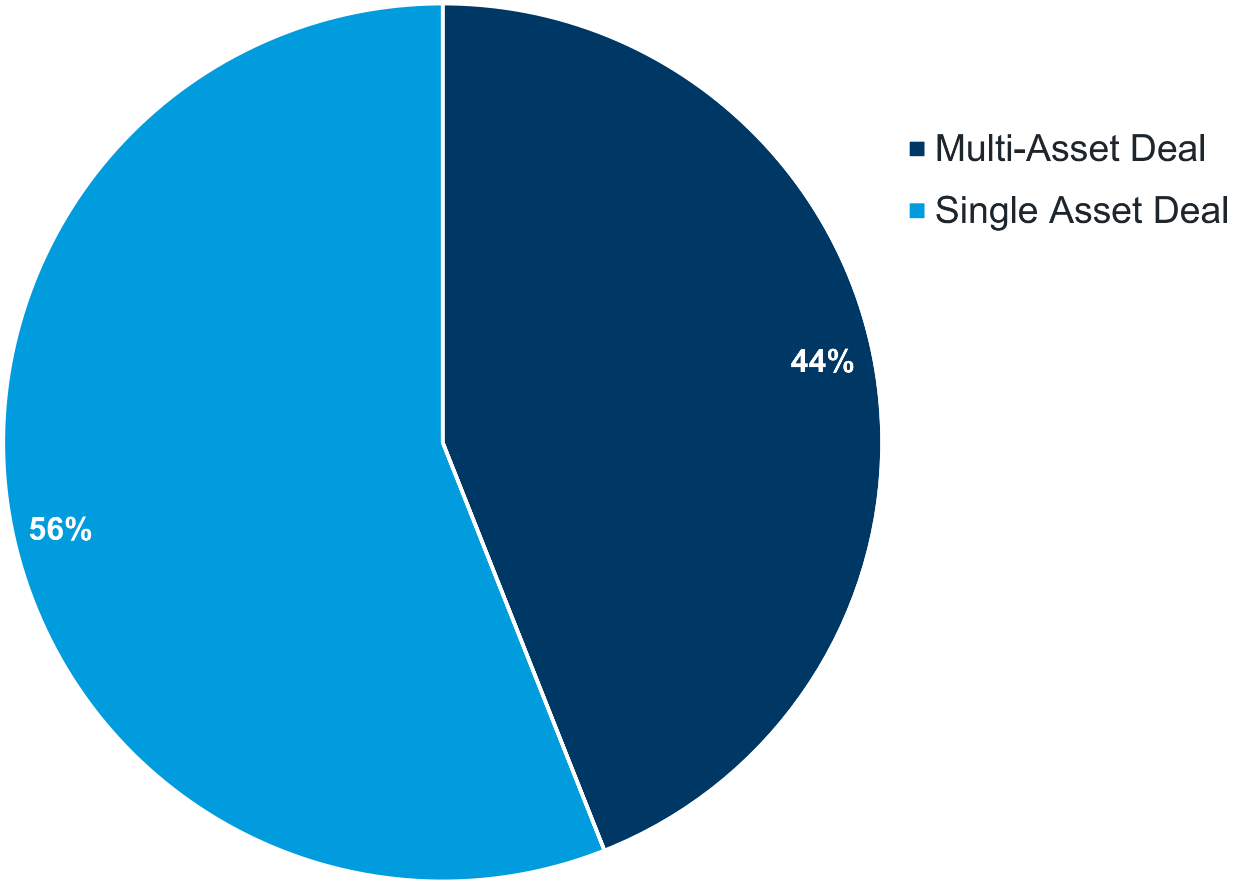
This chart highlights the principal jurisdiction of the subject portfolio companies, with the largest representations being North America (67%) and Europe (20%). This year, we saw a slight increase in the number of transactions with portfolio companies located throughout the rest of the world.



Proskauer

Single Asset Deal or Multi-Asset Deal?

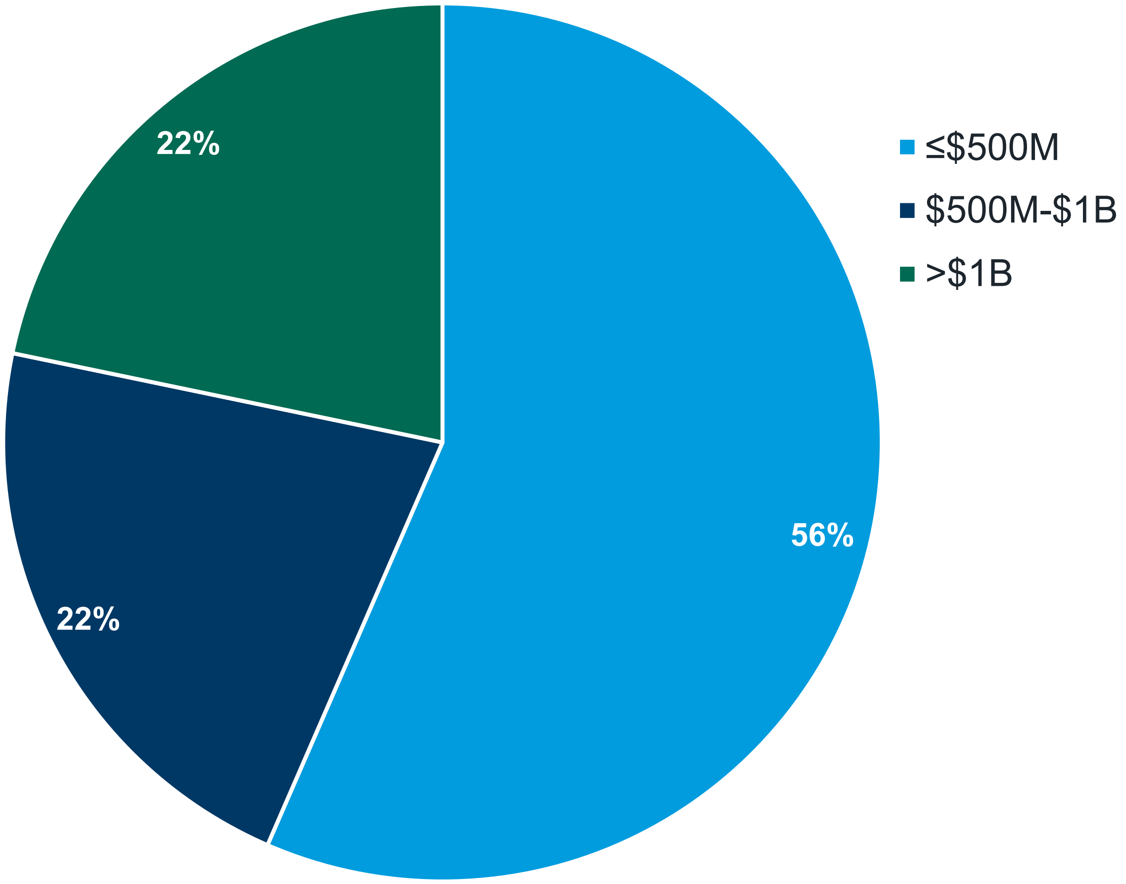
We continue to see more single asset deals, with those transactions making up 56% of the GP-led transactions our lawyers worked on the past year.



Proskauer

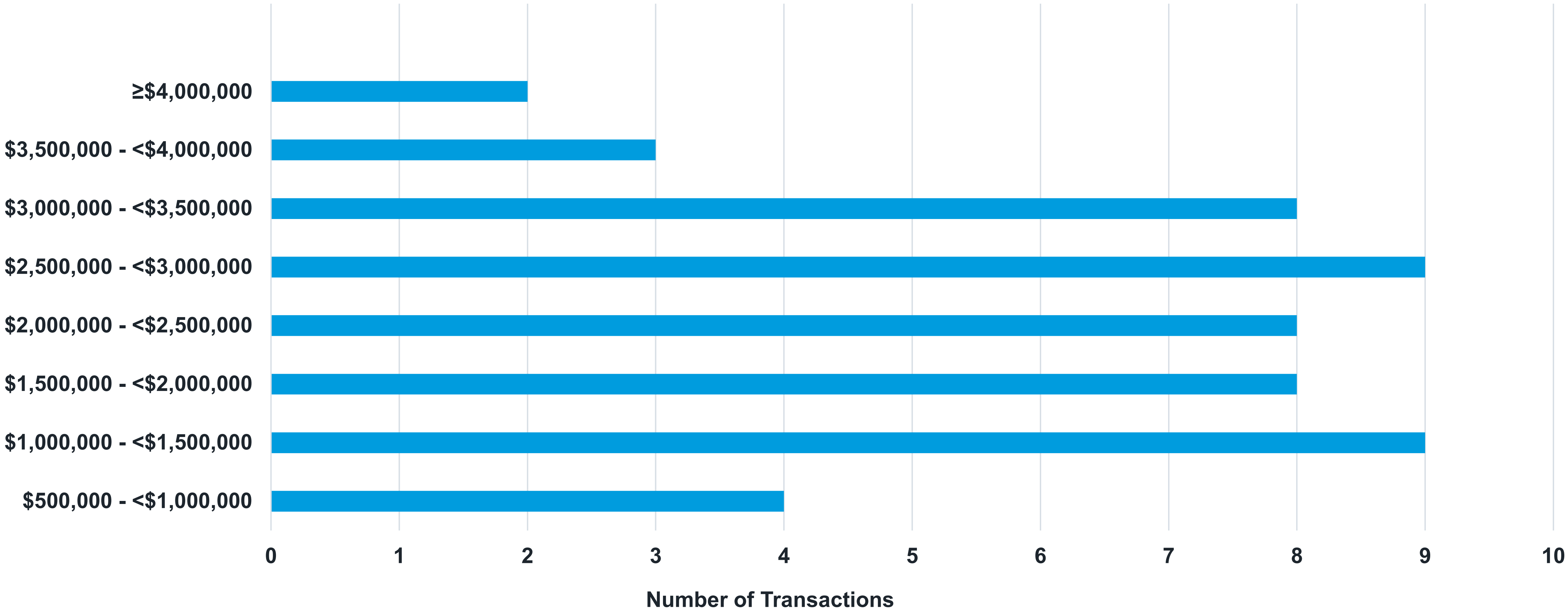
Size of Deal

The majority of the GP-led deals worked on over the applicable time period were slightly smaller in size, with an overall deal size of less than $500 million.



Proskauer

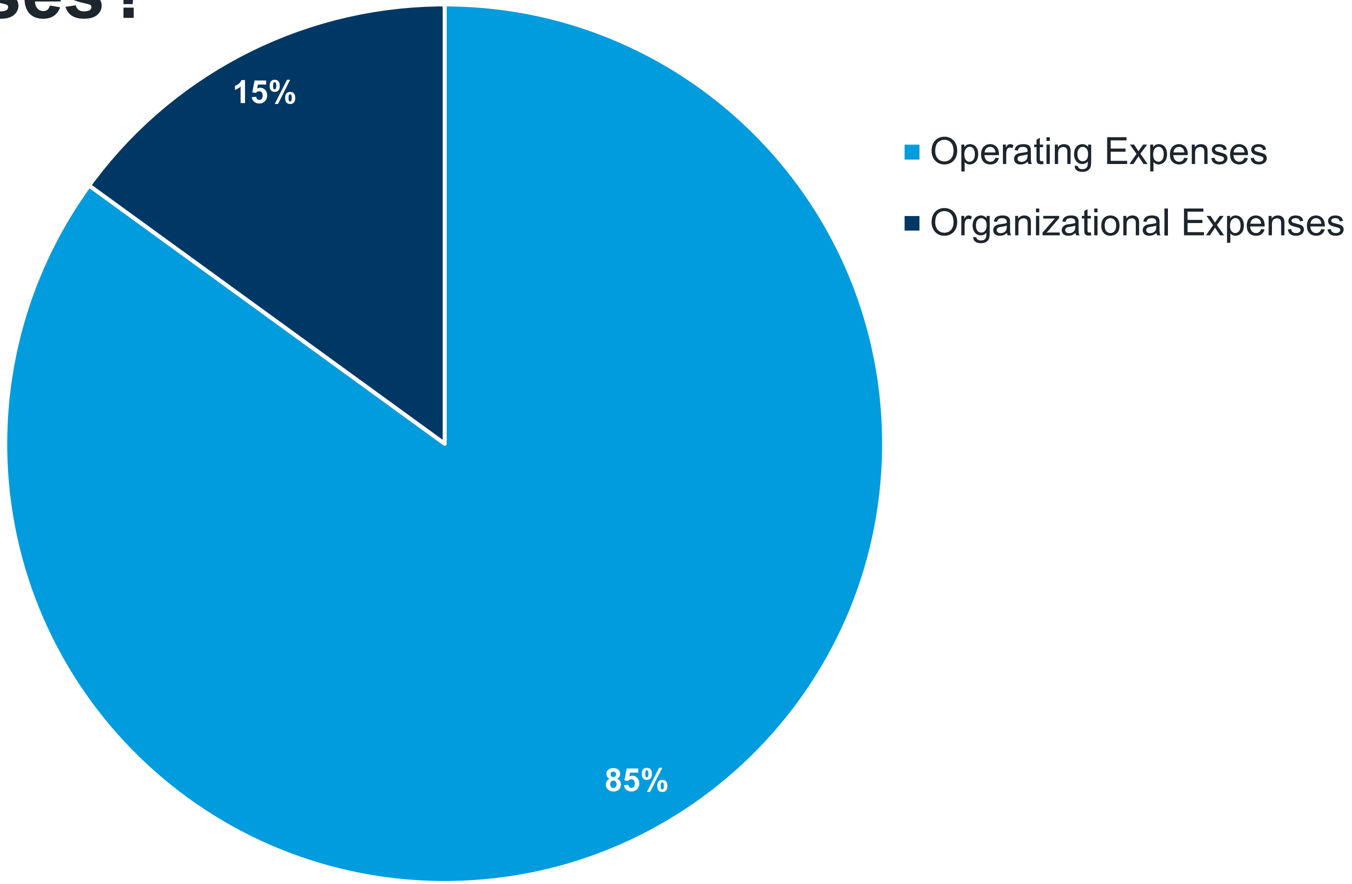
Organizational Expense Cap



Recent transactions have seen increases in organizational expense caps for GP-led transactions. Half of the funds have an organizational expense cap of at least $2 million.

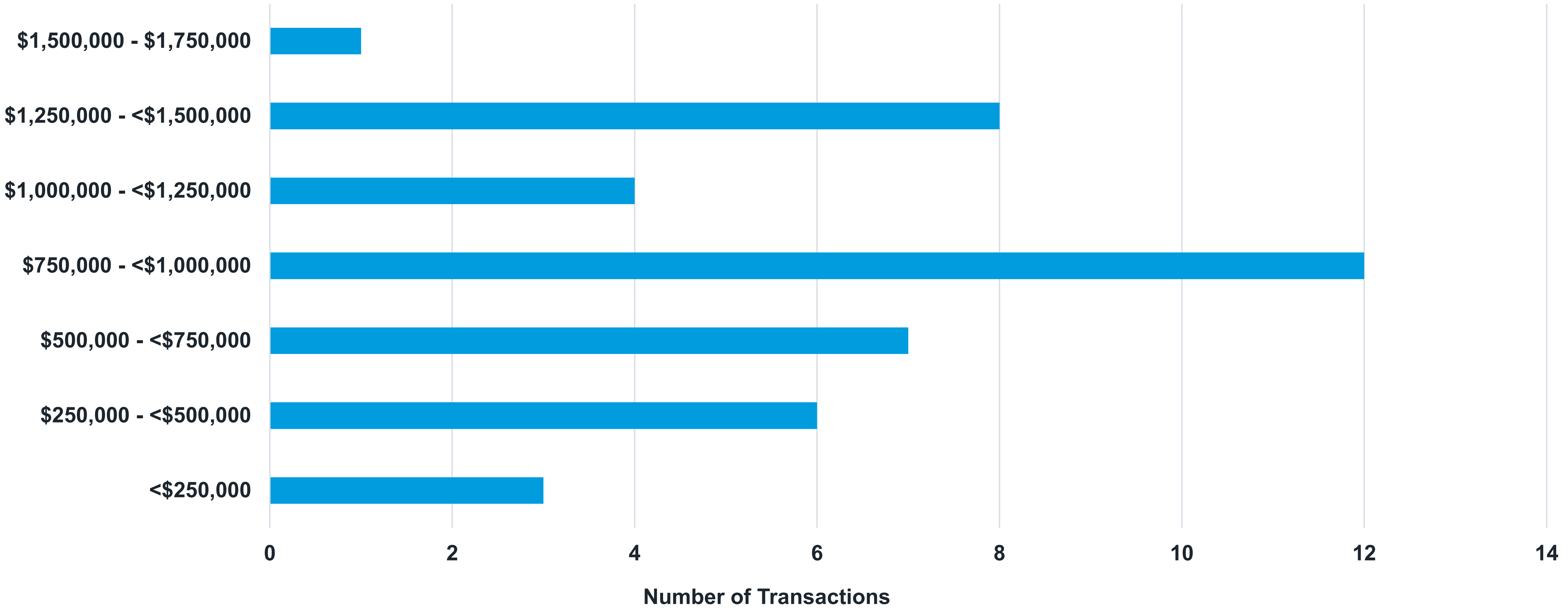
Are Lead Investor Expenses Treated as Organizational Expenses or Operating Expenses?

The vast majority of transactions do not include lead investor expenses in the applicable continuation fund's organizational expenses. Transactions that do include lead investor expenses in the definition of organizational expenses will correspondingly increase the caps of organizational expenses, which could contribute to some of the higher caps we saw on the prior slide.



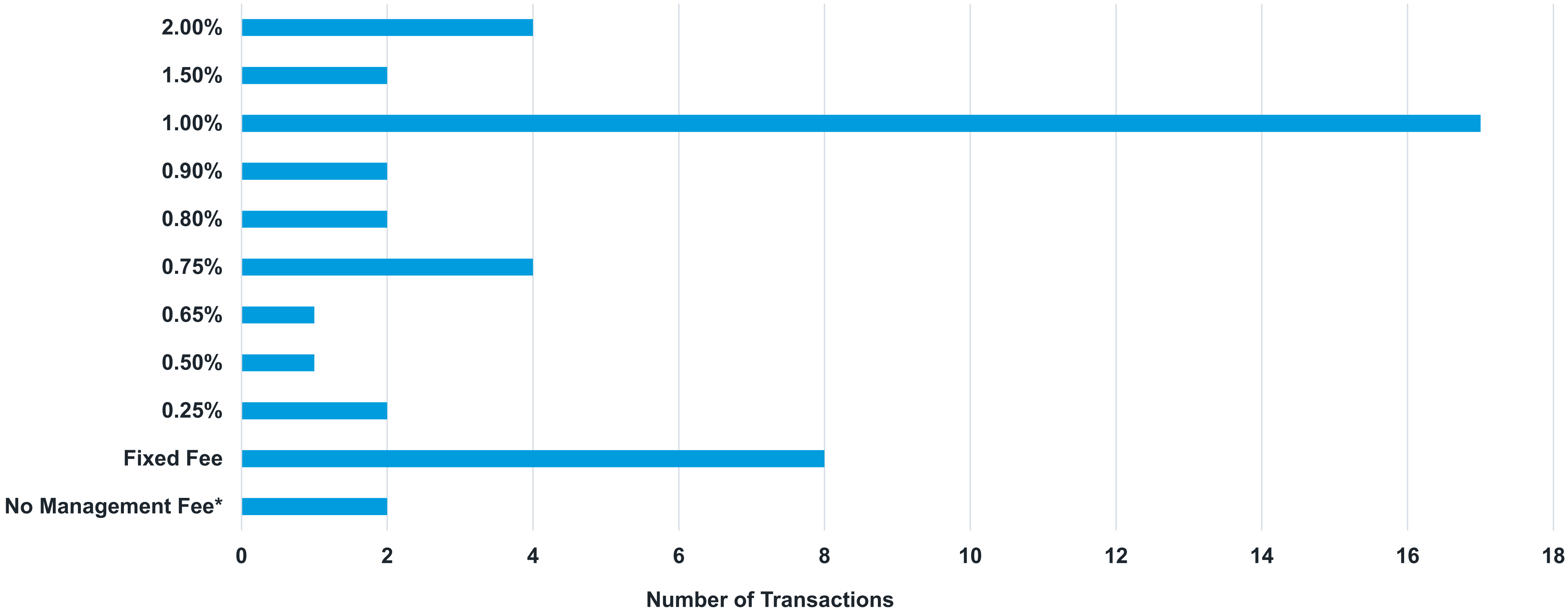
Proskauer

Lead Investor Expense Cap



Lead investor expense caps are often marked at or around half of a continuation fund's organizational expense cap, so as organizational expense caps have increased, lead investor expense caps have unsurprisingly been on the rise as well.

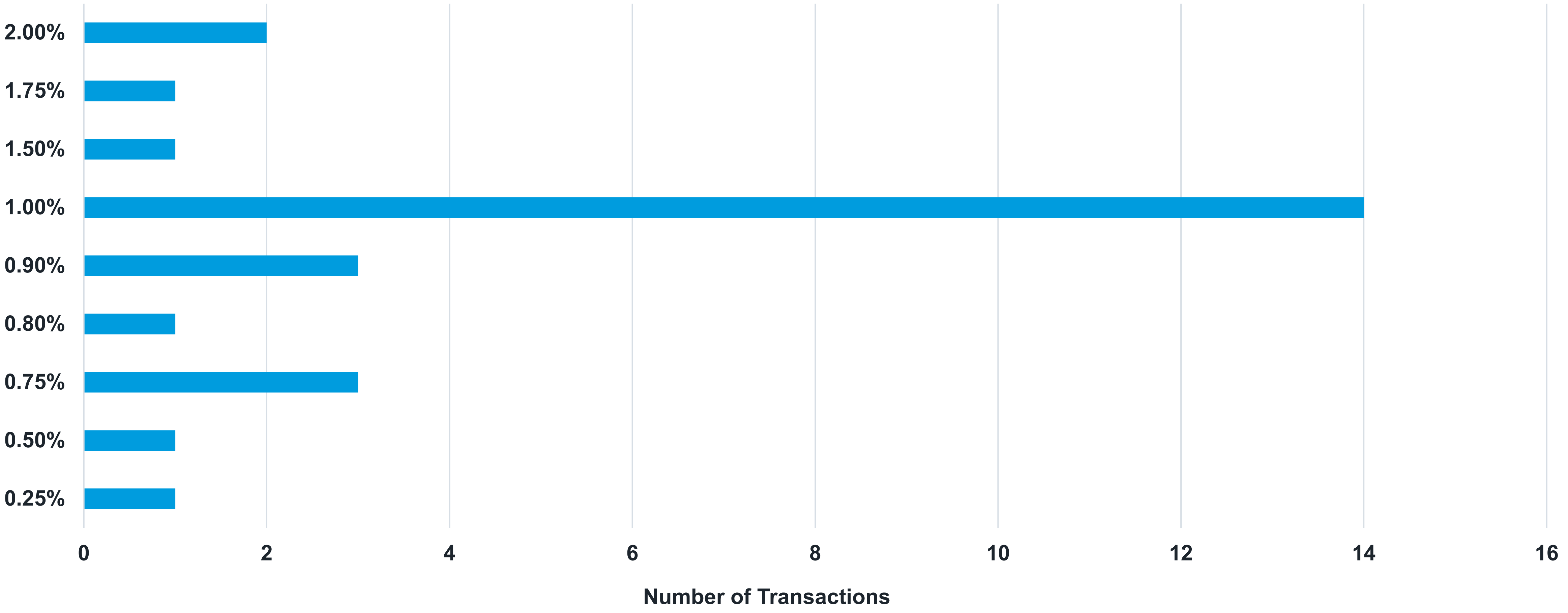
Management Fees For New Investors



*No management fee, but manager receives monitoring fees from the portfolio.

Proskauer

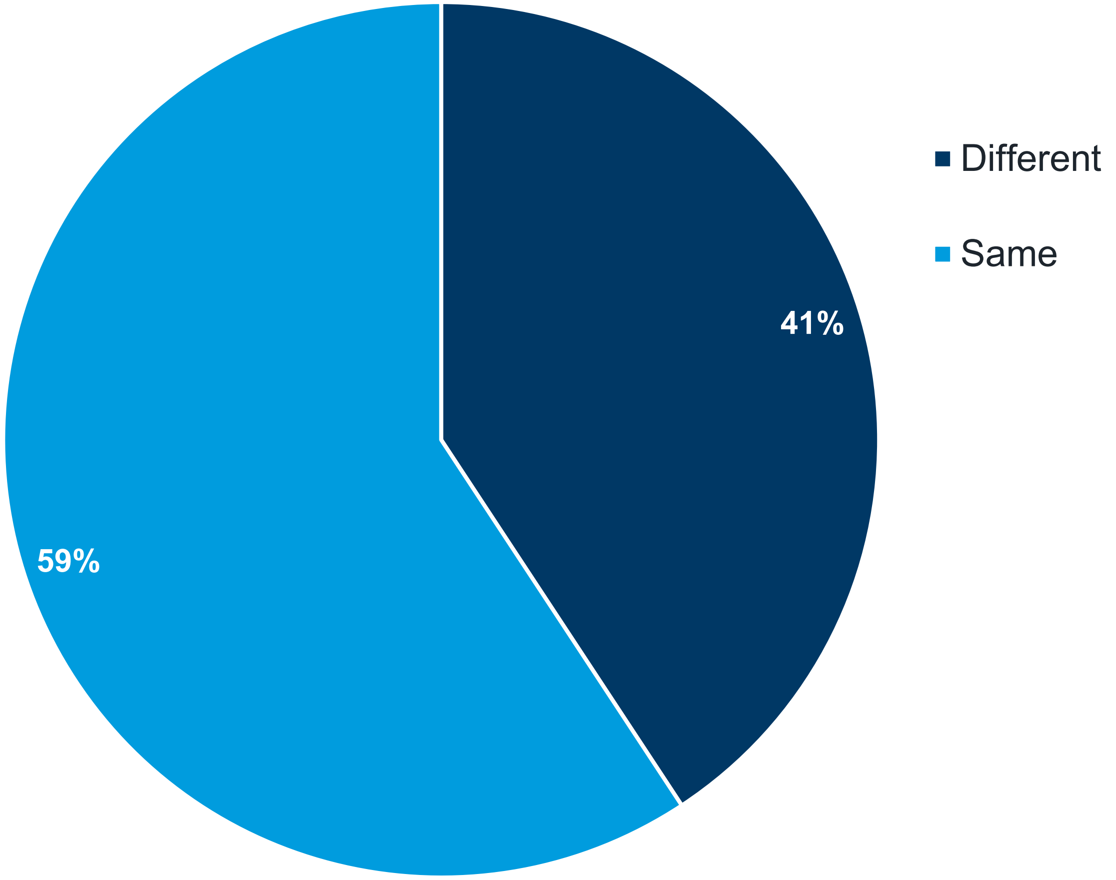
Management Fees for Rolling Investors



Proskauer

Are Management Fee Rates the Same for Rolling Investors and New Investors?

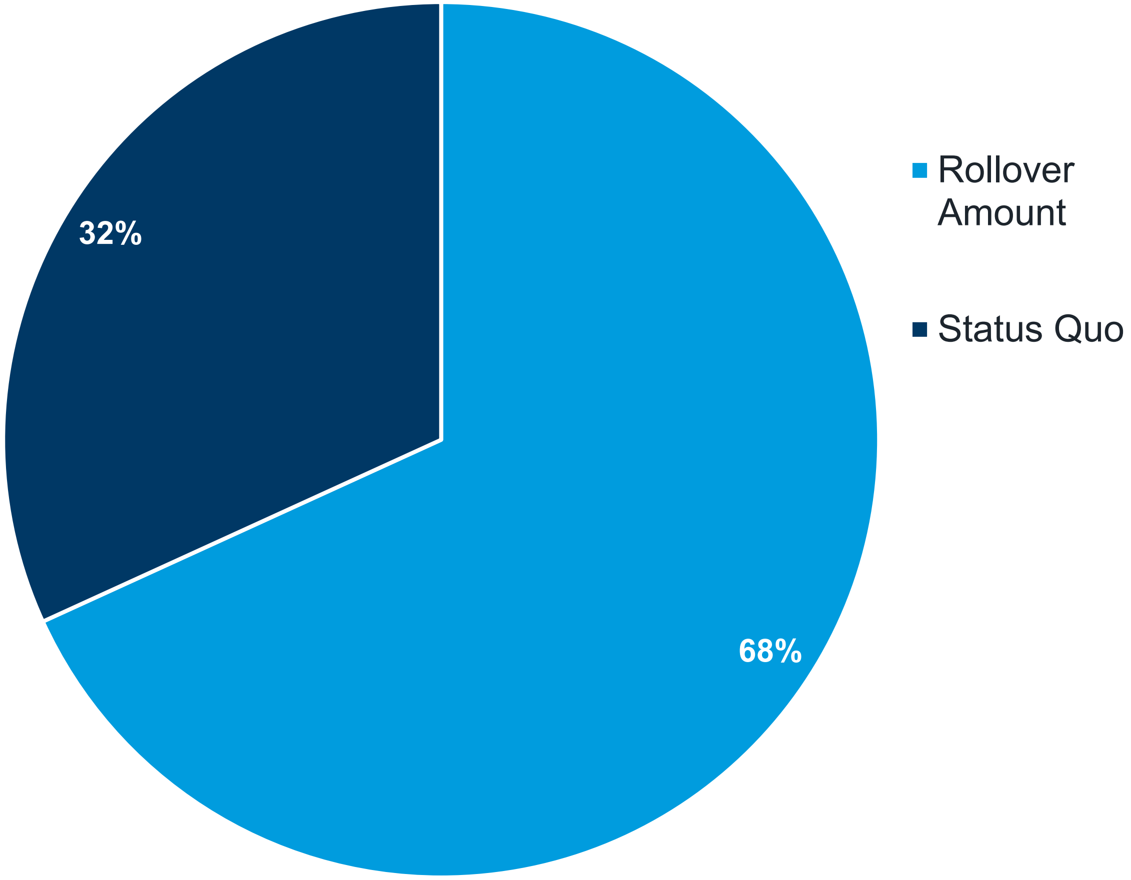
Management fee rates for rolling investors and new investors are the same in 59% of deals.



Proskauer

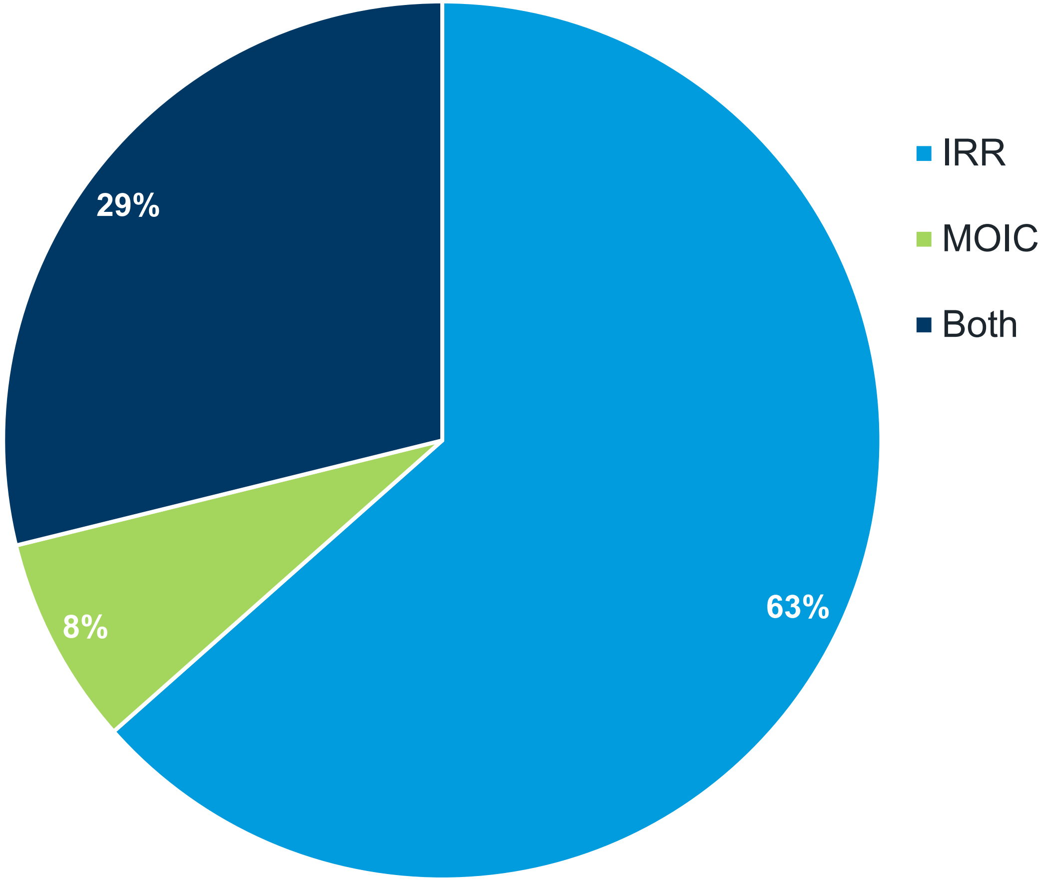
What is the Management Fee Based upon for Rolling Investors?

Management fee for rollover investors is based upon the rollover amount in 68% of deals.



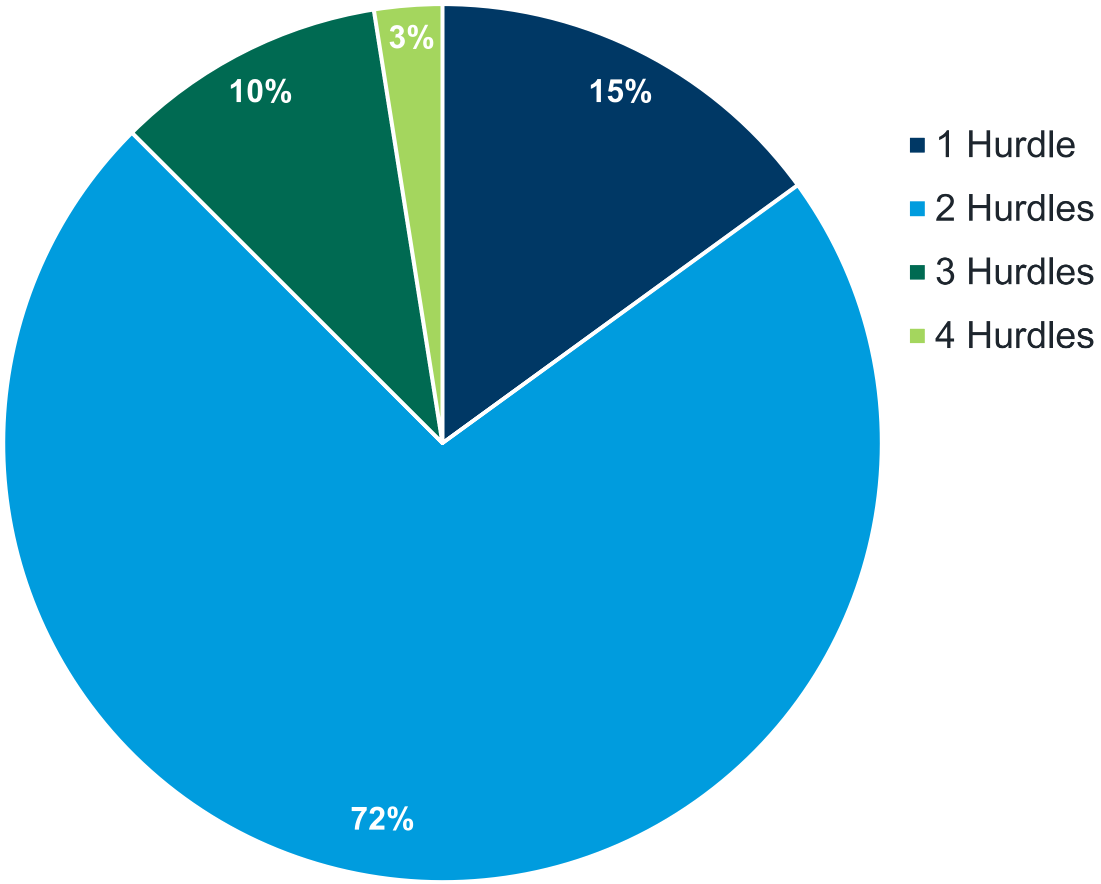
Is there an IRR or MOIC Hurdle Before the GP Receives Carried Interest?

92% of deals we saw included an IRR Hurdle, either exclusively or with MOIC attached.



If there is a Carry Ratchet, How Many Performance Hurdles?

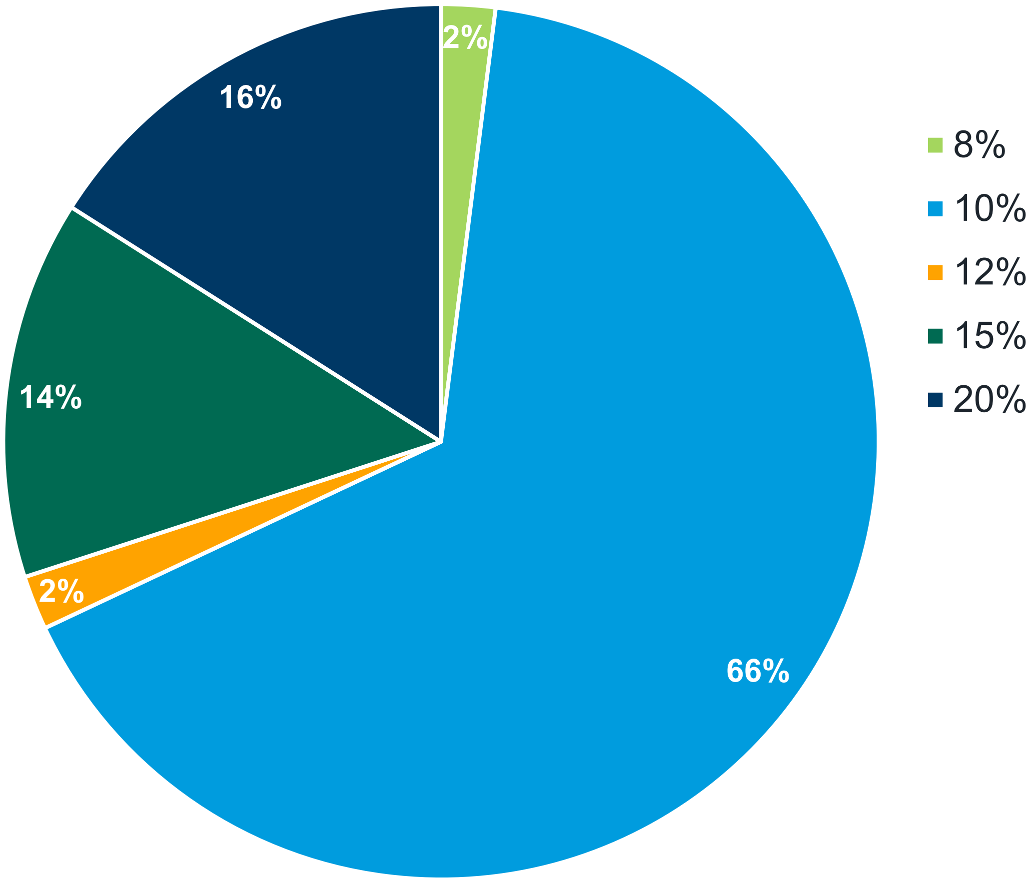
Two hurdles is the most commonly used formulation (72% of deals).



Proskauer

If there is a Carry Ratchet, What is the Lowest Attainable Carry Percentage?

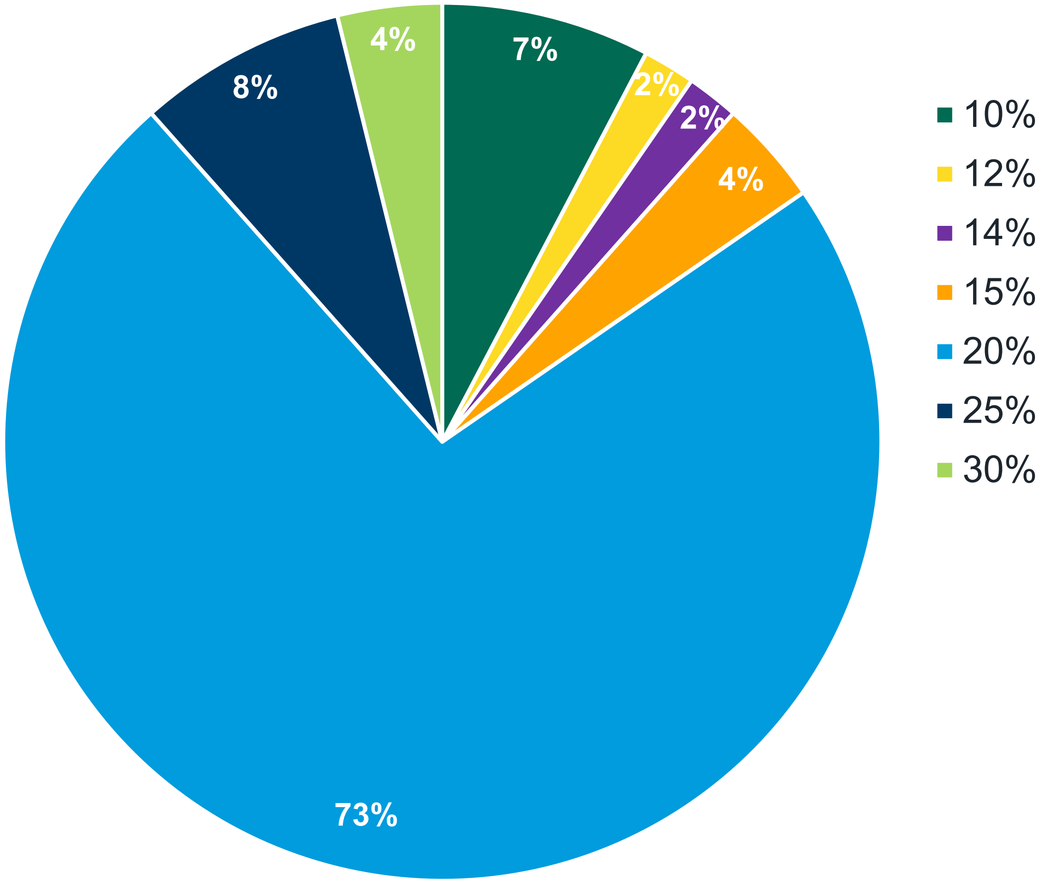
10% is the most common first tier of carried interest (66%), with 30% of the deals starting at 15% or 20% carried interest.



Proskauer

If there is a Carry Ratchet, What is the Highest Attainable Carry Percentage once All Hurdles Are Satisfied?

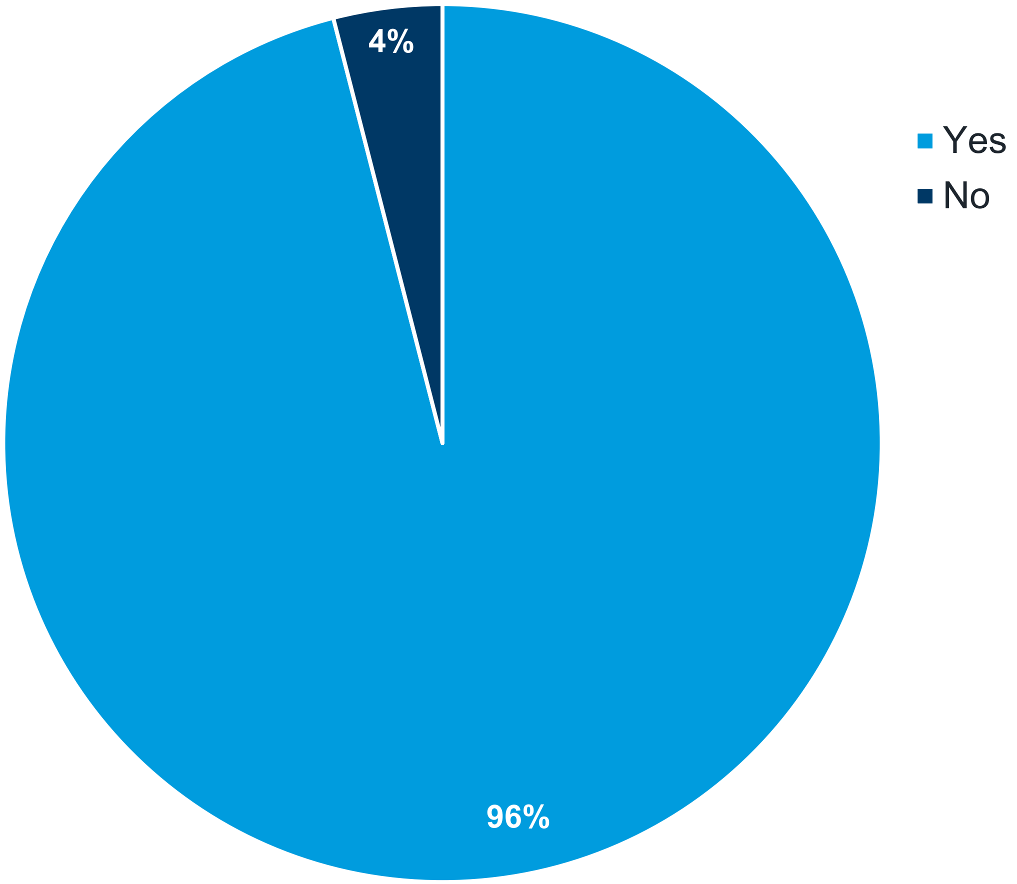
Nearly three-quarters of recent deals have seen the highest attainable carry top out at 20%.



Proskauer

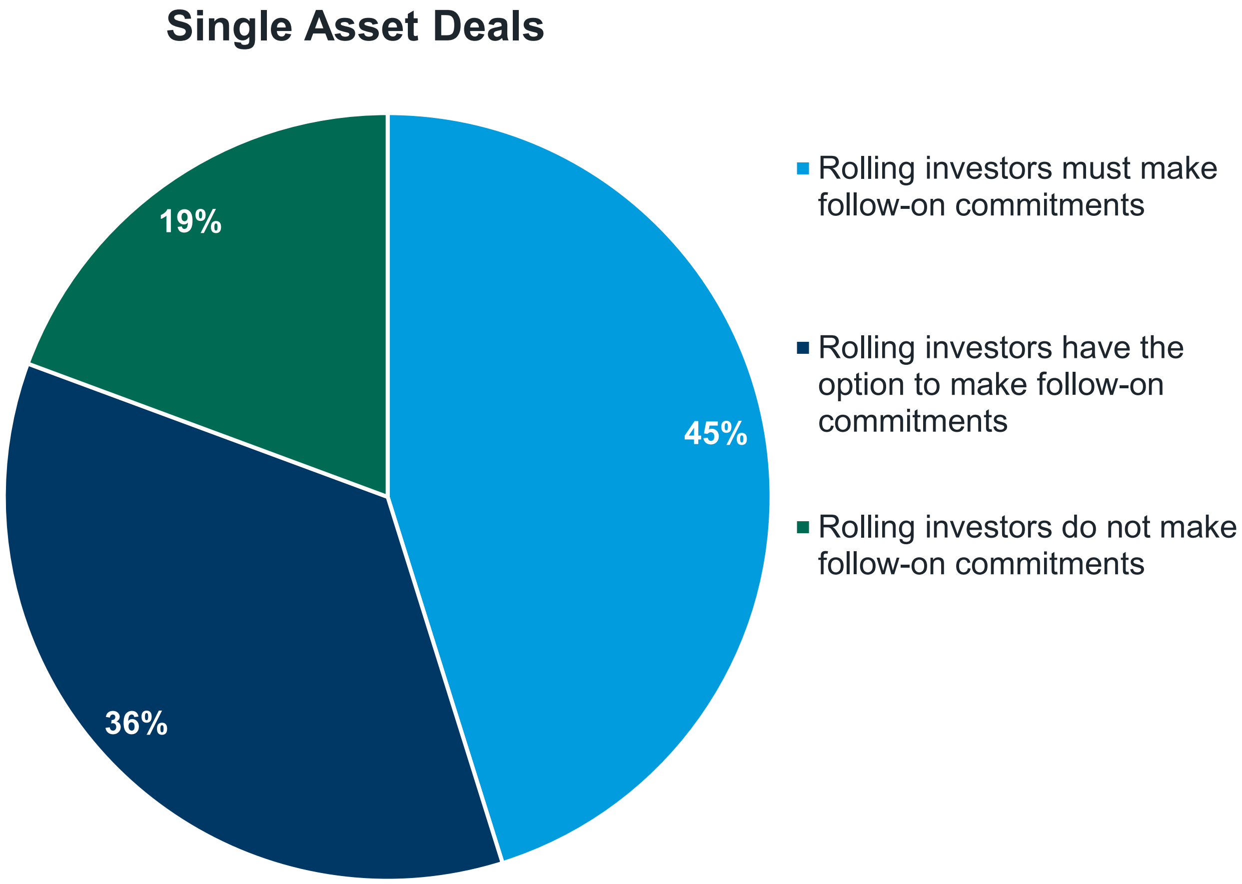
Is there a Catch-Up?

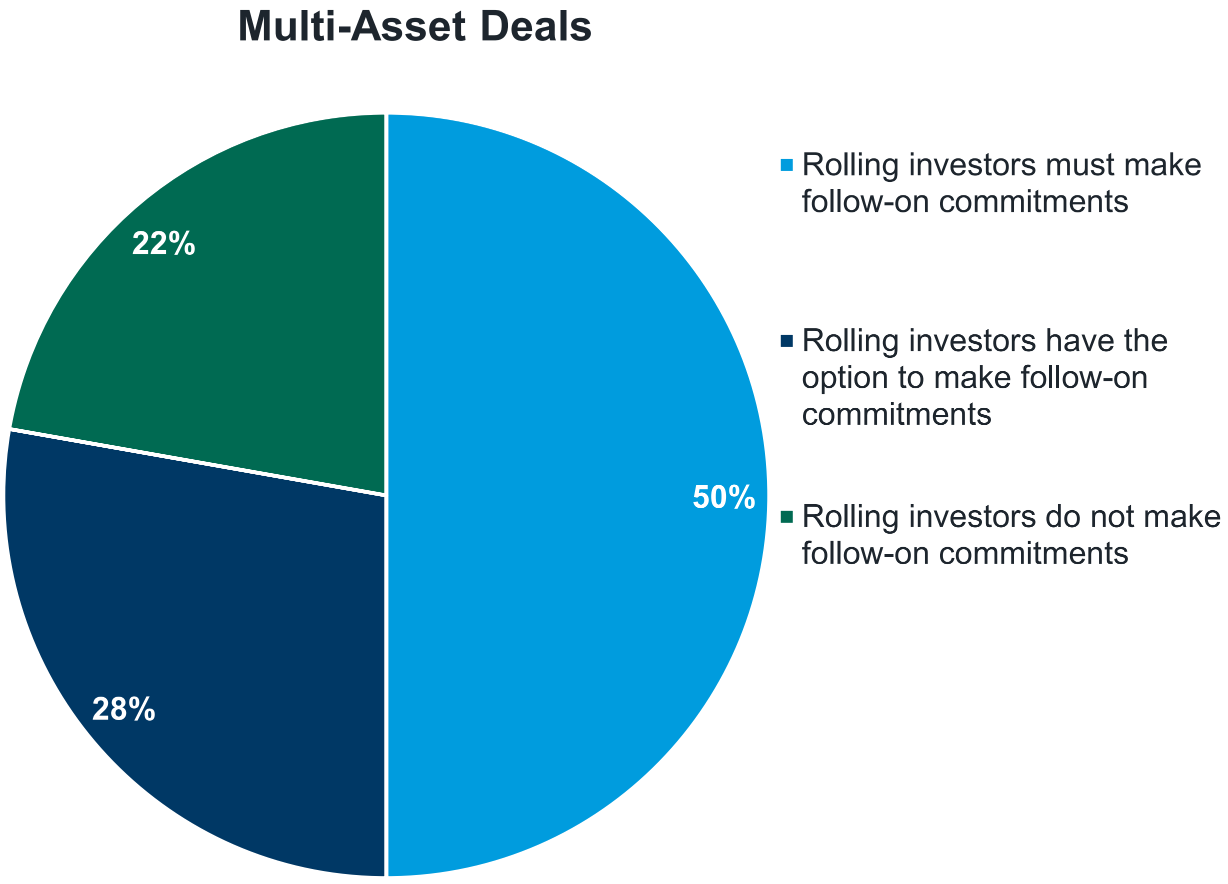
Nearly all deals include a GP catch-up.



Proskauer

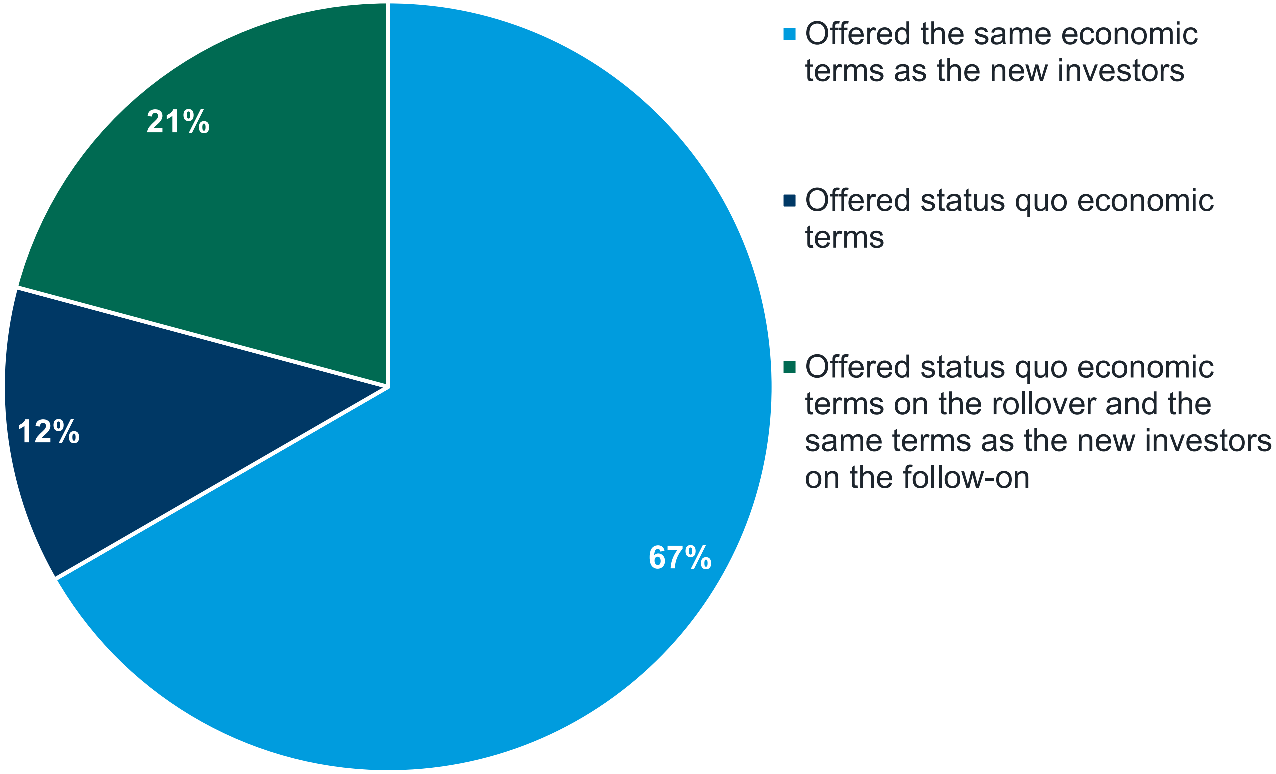
Rolling Investors and Follow-On Commitments



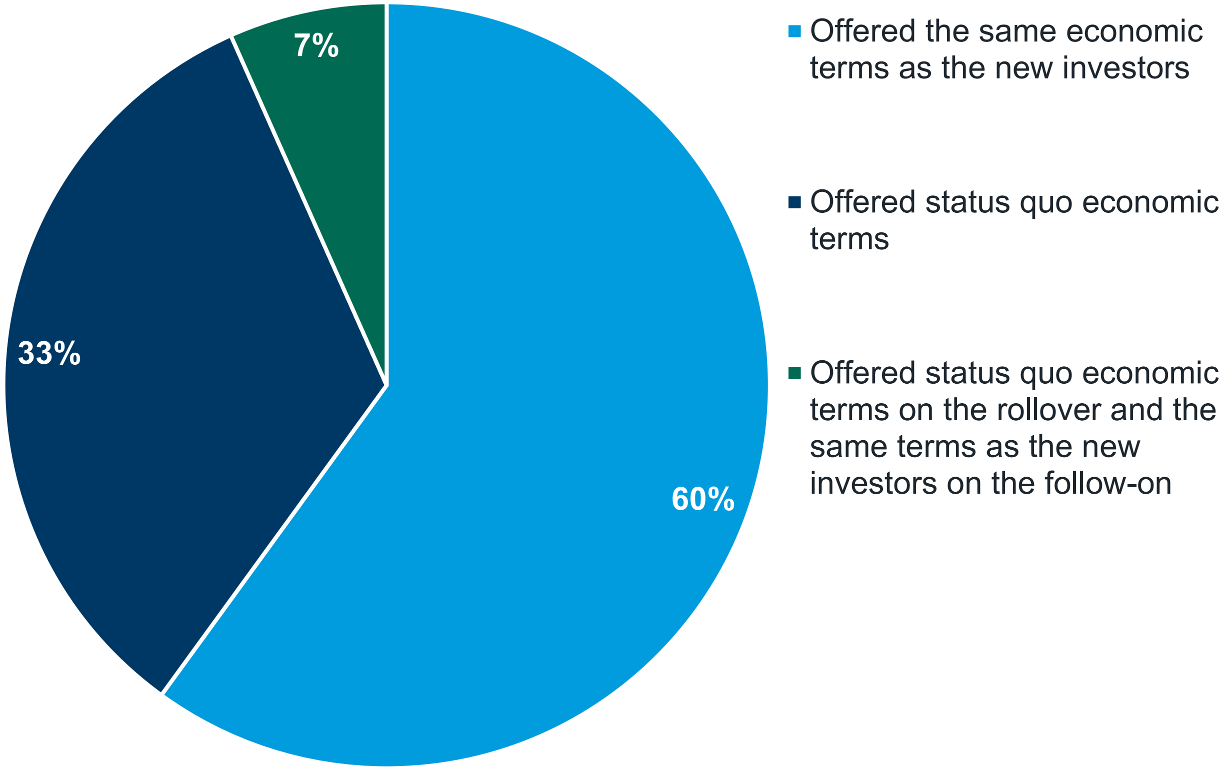


Offerings to Rolling Investors

Single Asset Deals

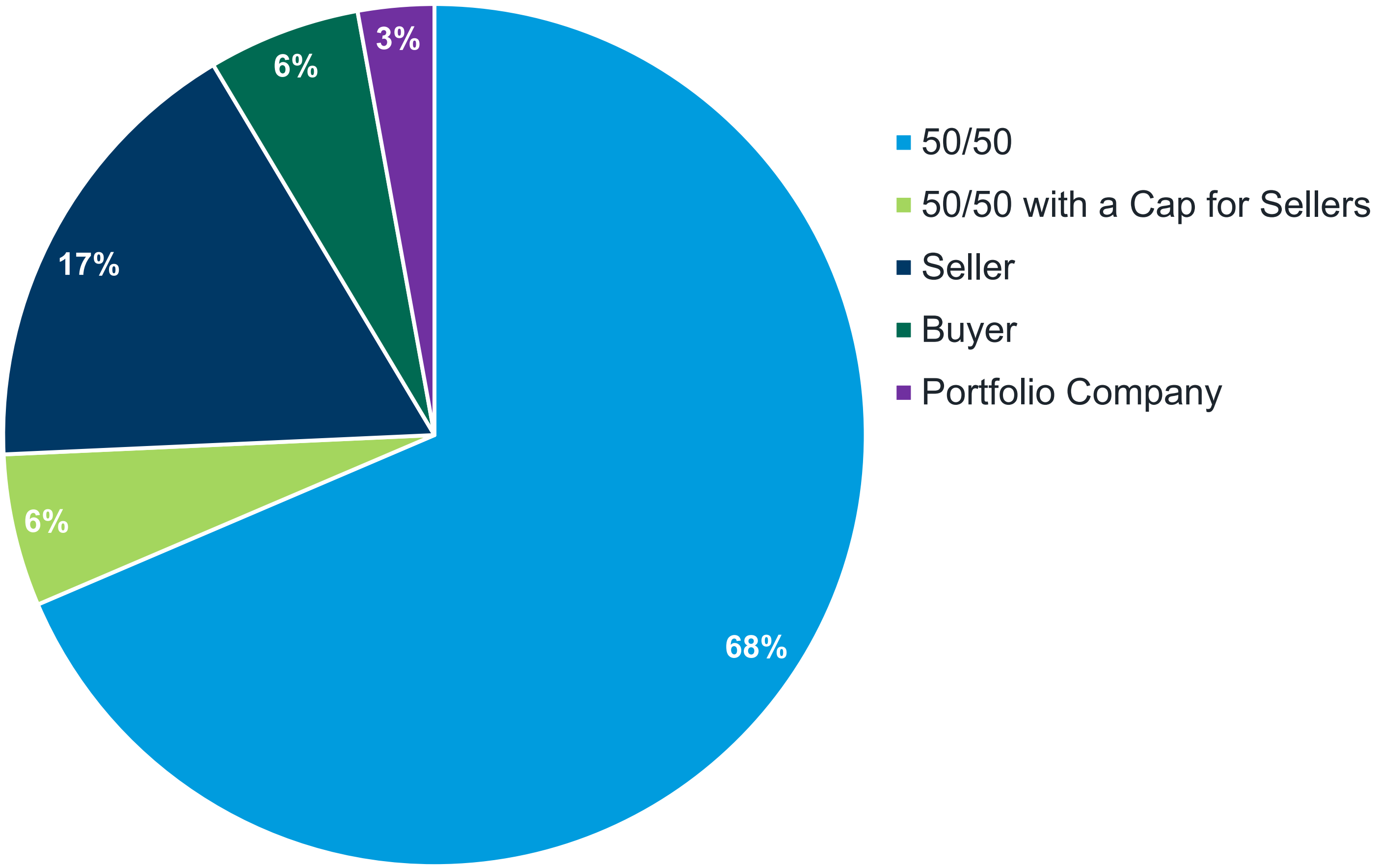


Multi-Asset Deals



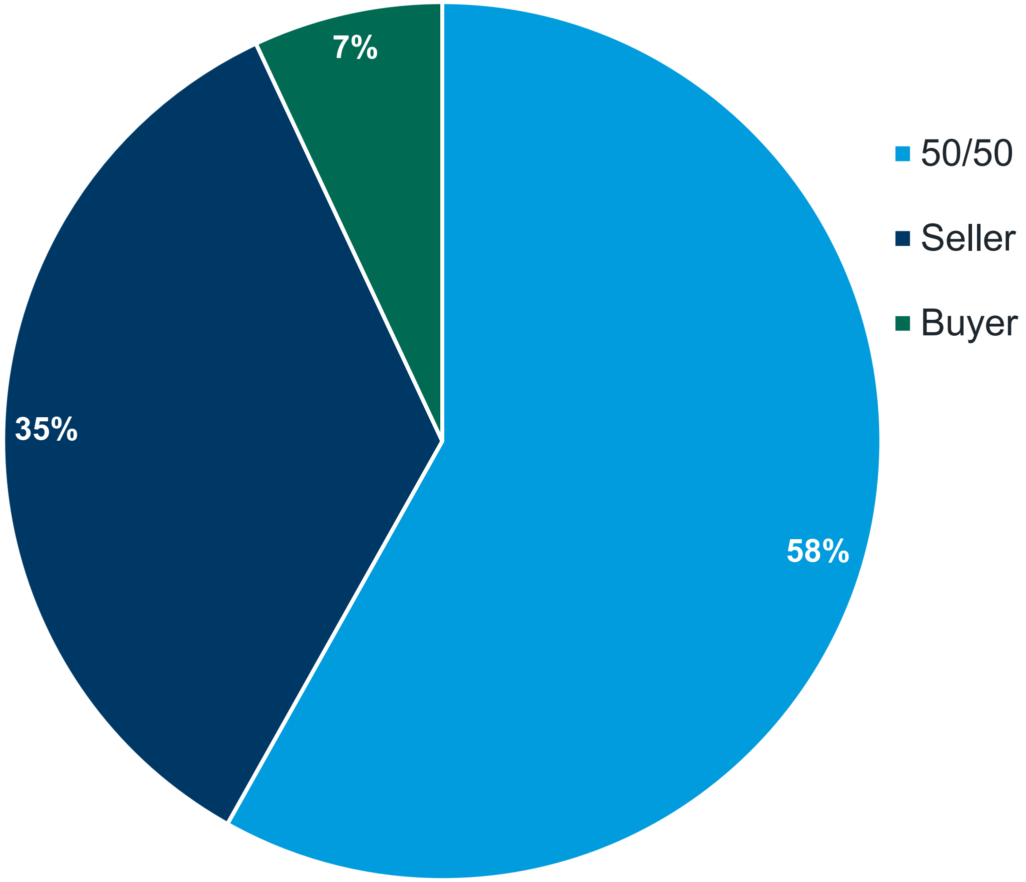
Who Pays for the RWI Policy?

68% of the deals we closed during the relevant period used a pure 50/50 split on RWI.



Who Bears the Expense for Negotiating the Transaction Agreement?

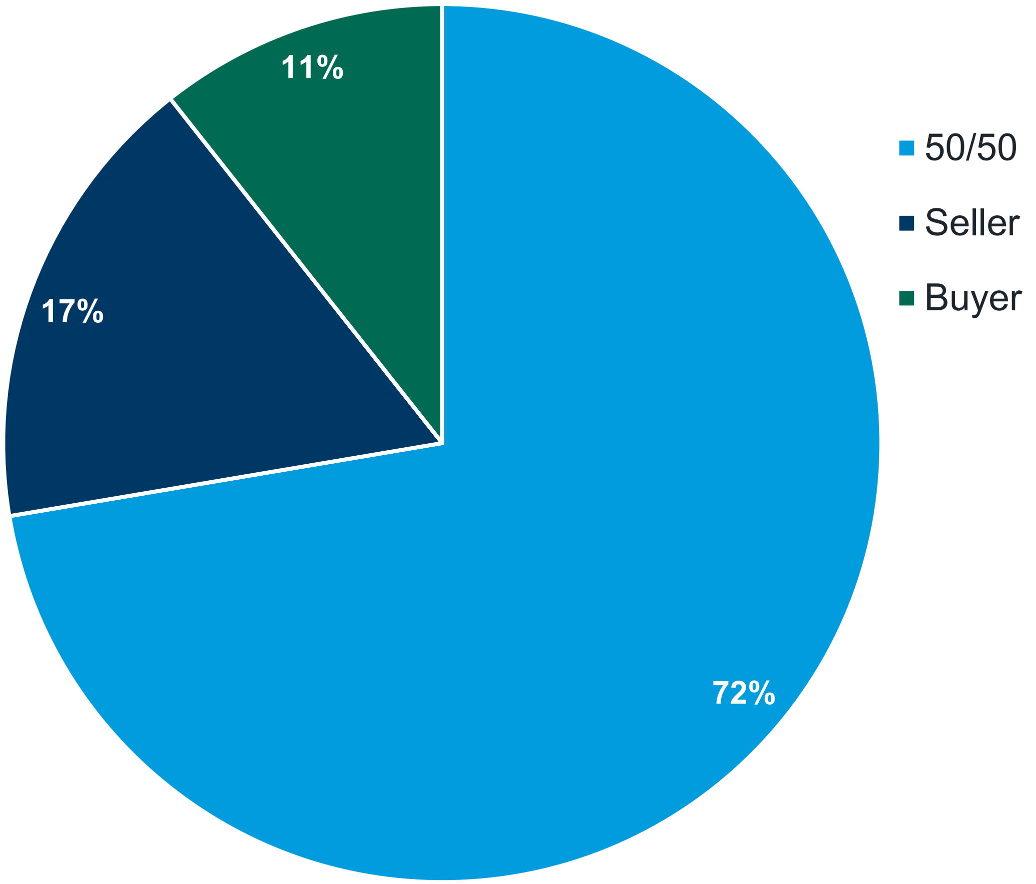
The seller was solely responsible for bearing the expense for negotiating the transaction agreement in 35% of deals.



Proskauer

Who Bears the Transfer Taxes?

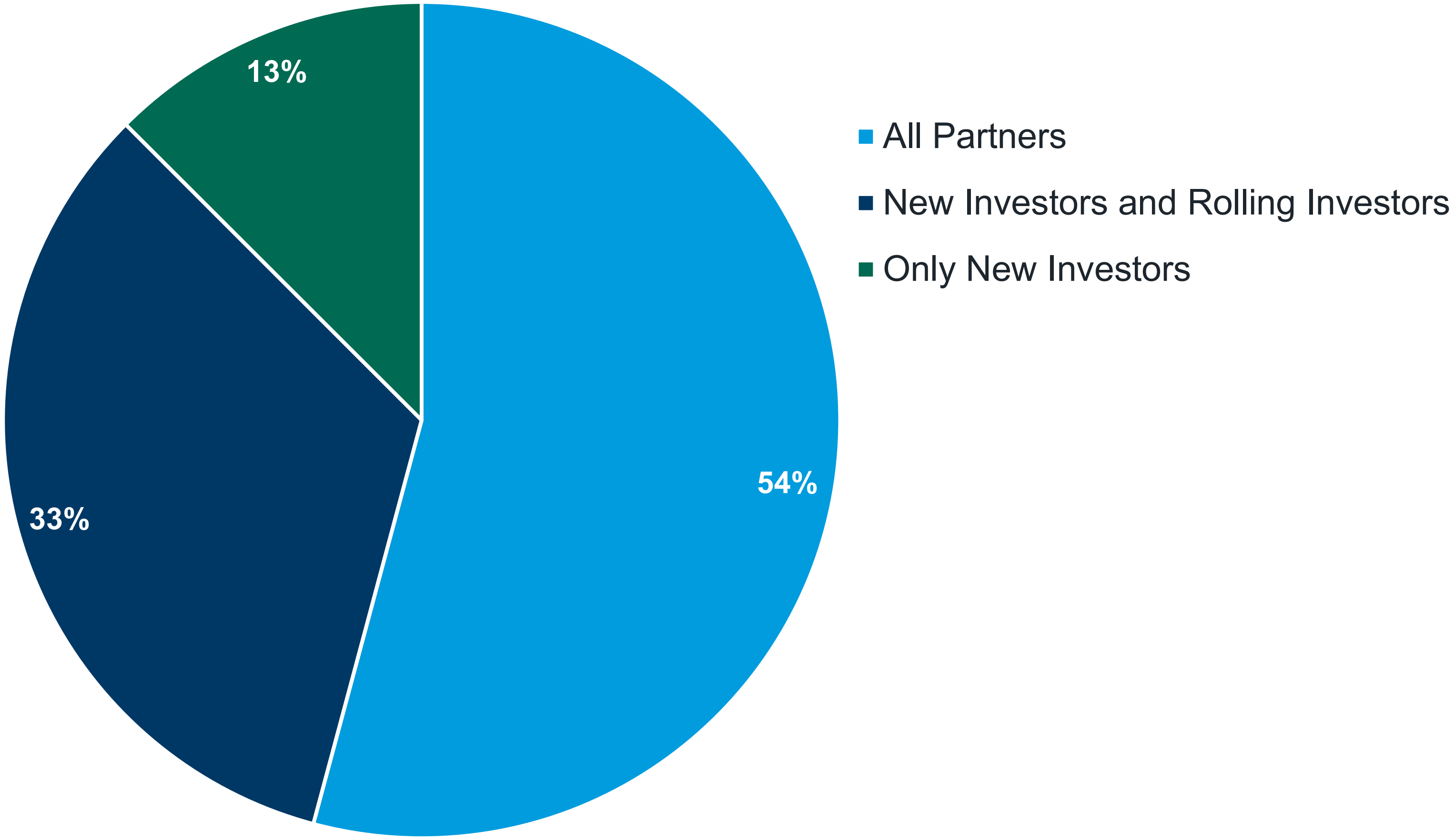
The vast majority of deals continue to split any transfer taxes 50/50 between the parties.



Proskauer

Who Bears the Organizational Expenses?

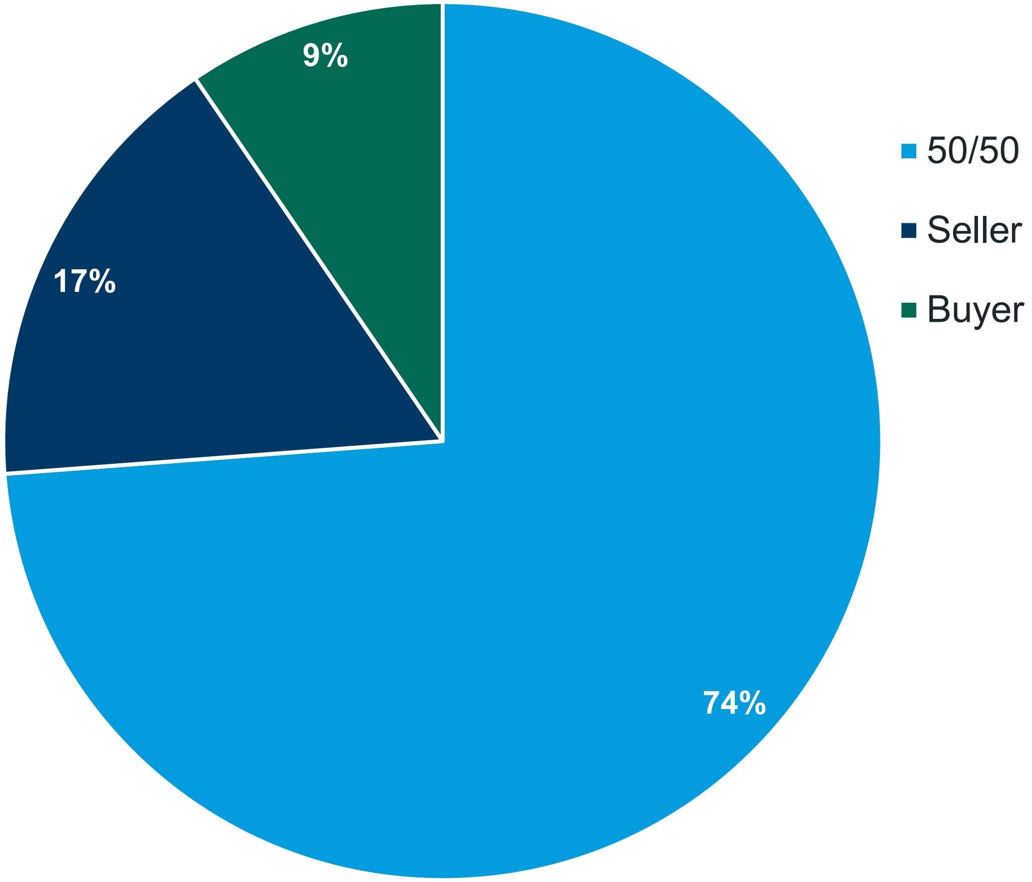
All partners are responsible for bearing the organizational expenses in more than half of deals.



Proskauer

Who Bears the Regulatory Expenses?

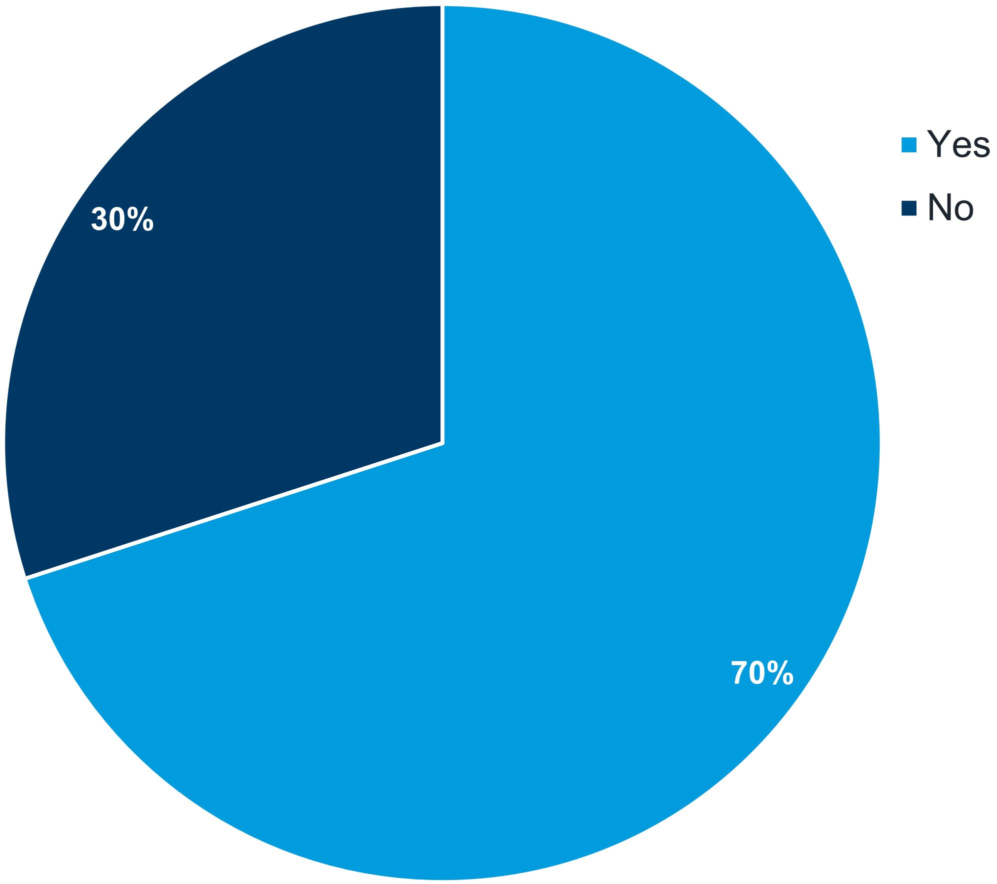
The vast majority of deals continue to split any regulatory expenses 50/50 between the parties.



Proskauer

Is there Representation and Warranty Insurance?

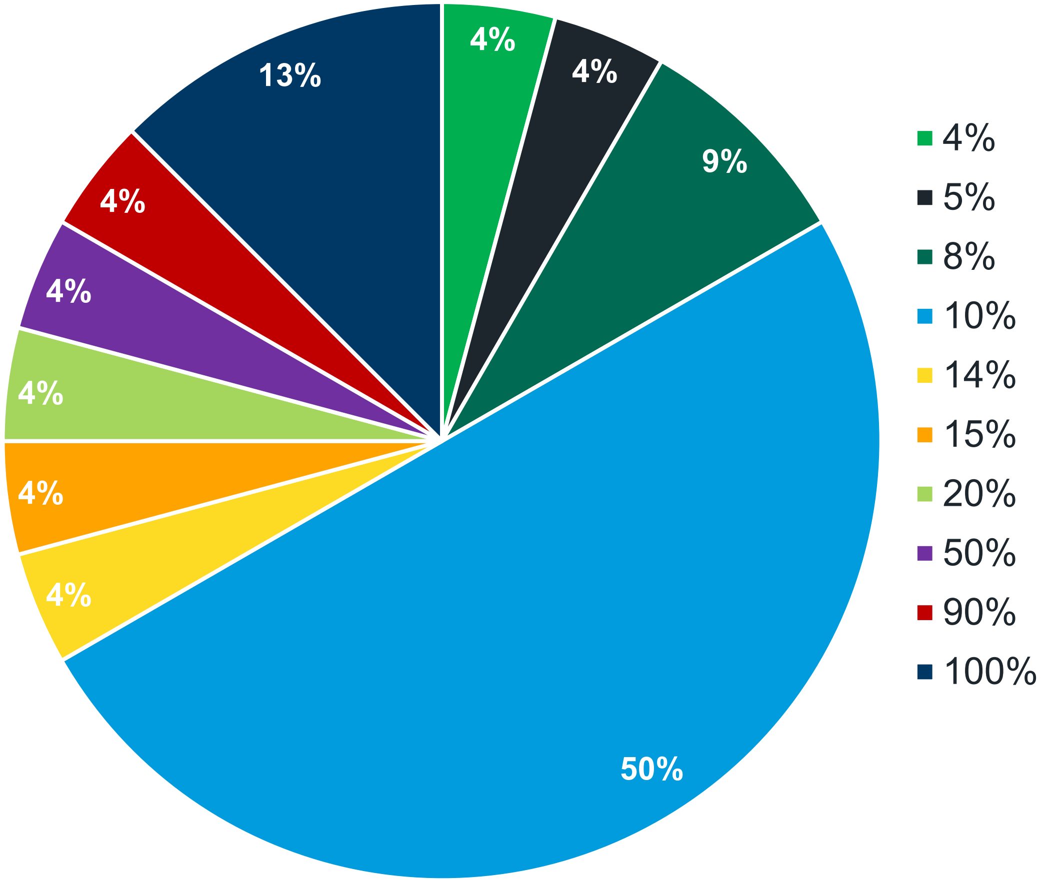
70% of deals include RWI.



Proskauer

What is the Amount of the Primary Coverage?

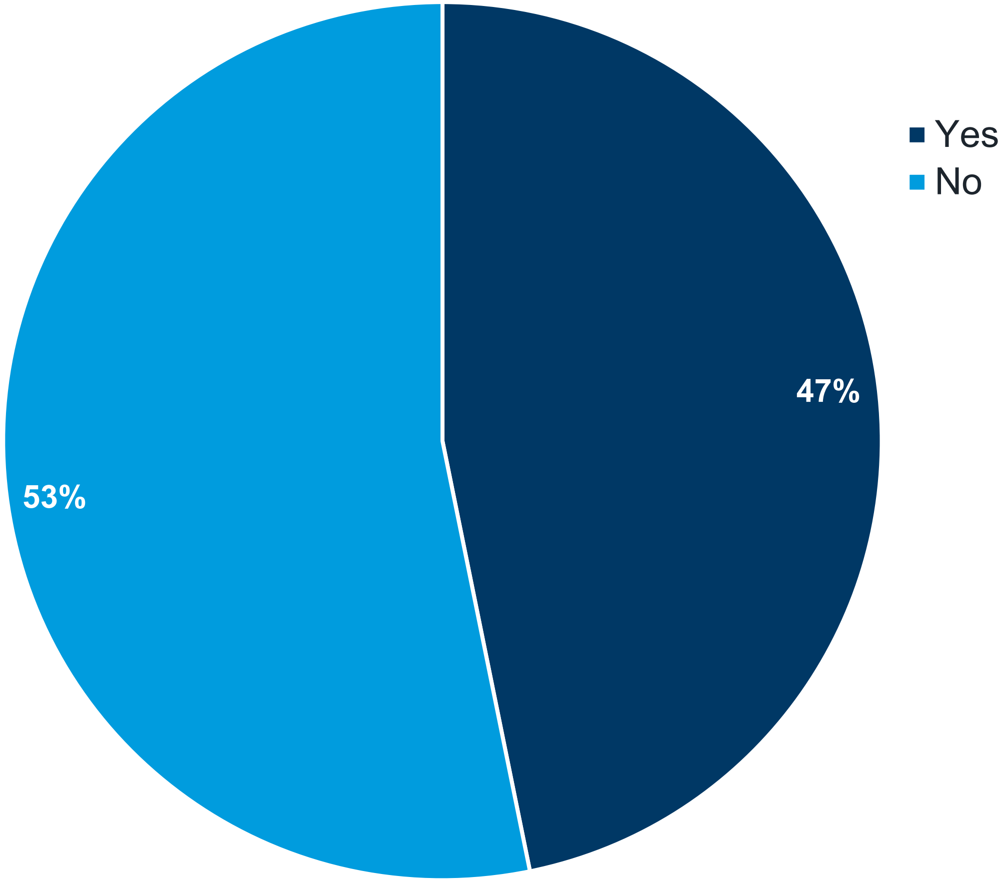
10% is the amount of the primary coverage in half of the deals.



Proskauer

Is there Excess Coverage?

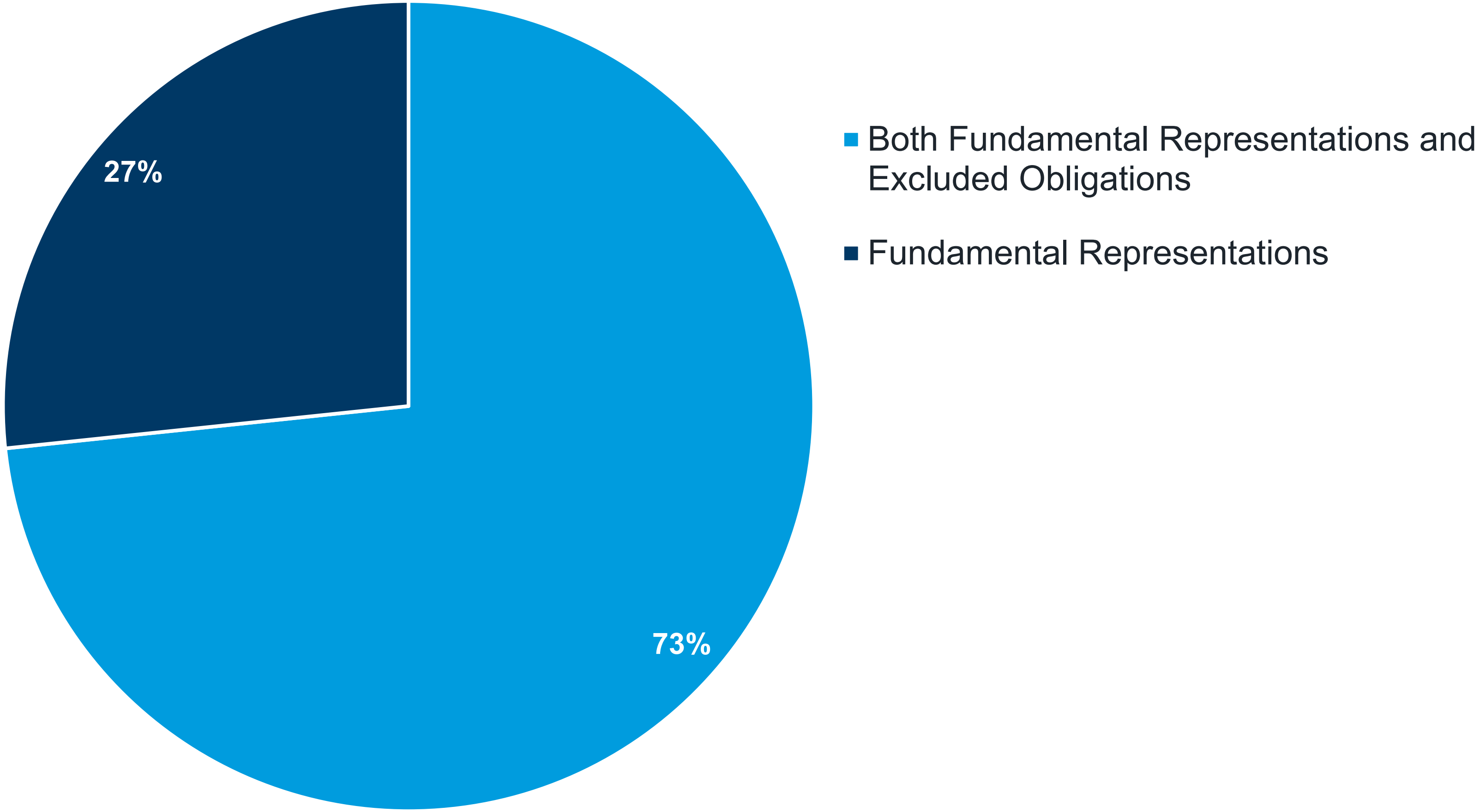
There is a relatively even split in deals that include coverage for excluded obligations insurance.



Proskauer

What Does the Excess Coverage Cover?

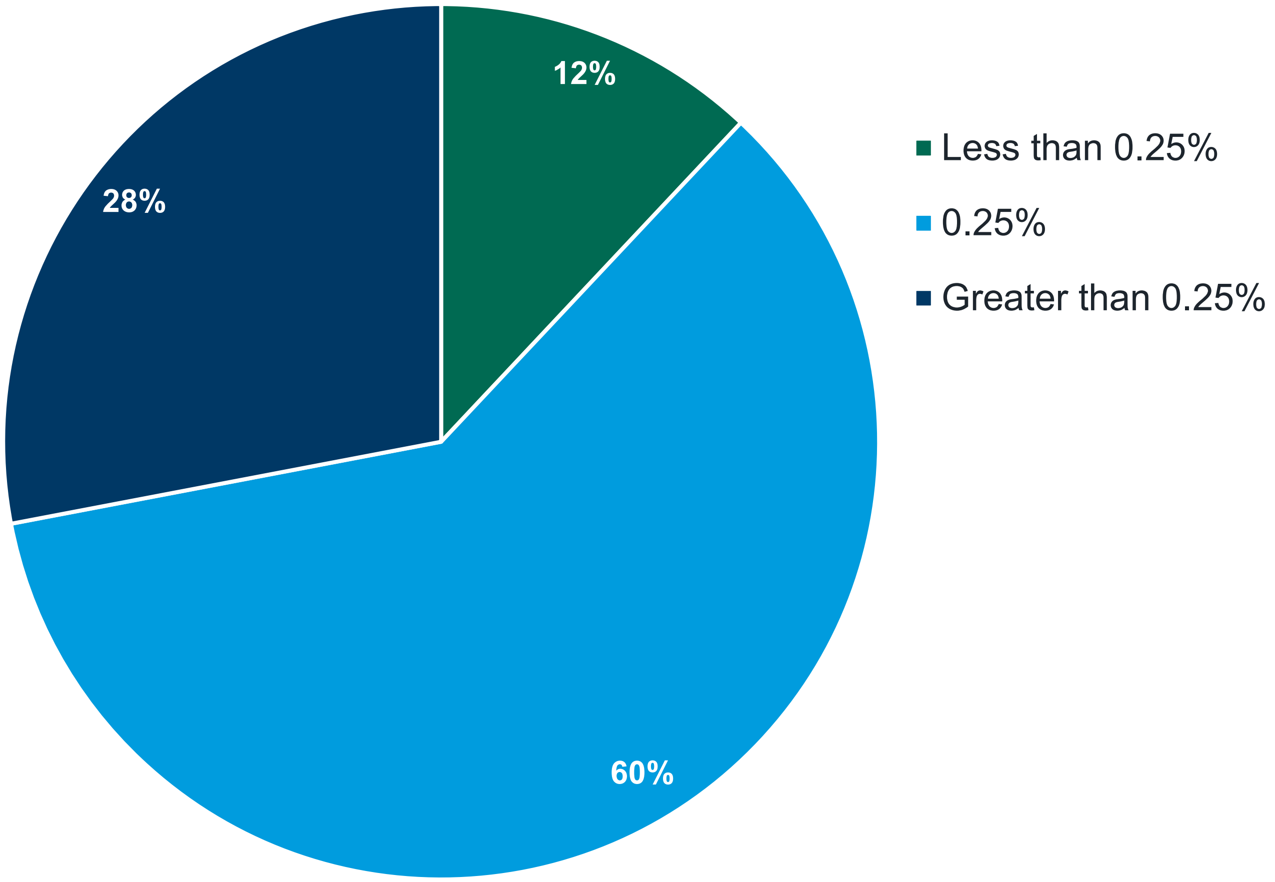
The excess coverage includes both fundamental representations and excluded obligations in nearly three-quarters of deals.



Proskauer

What is the Retention Amount?

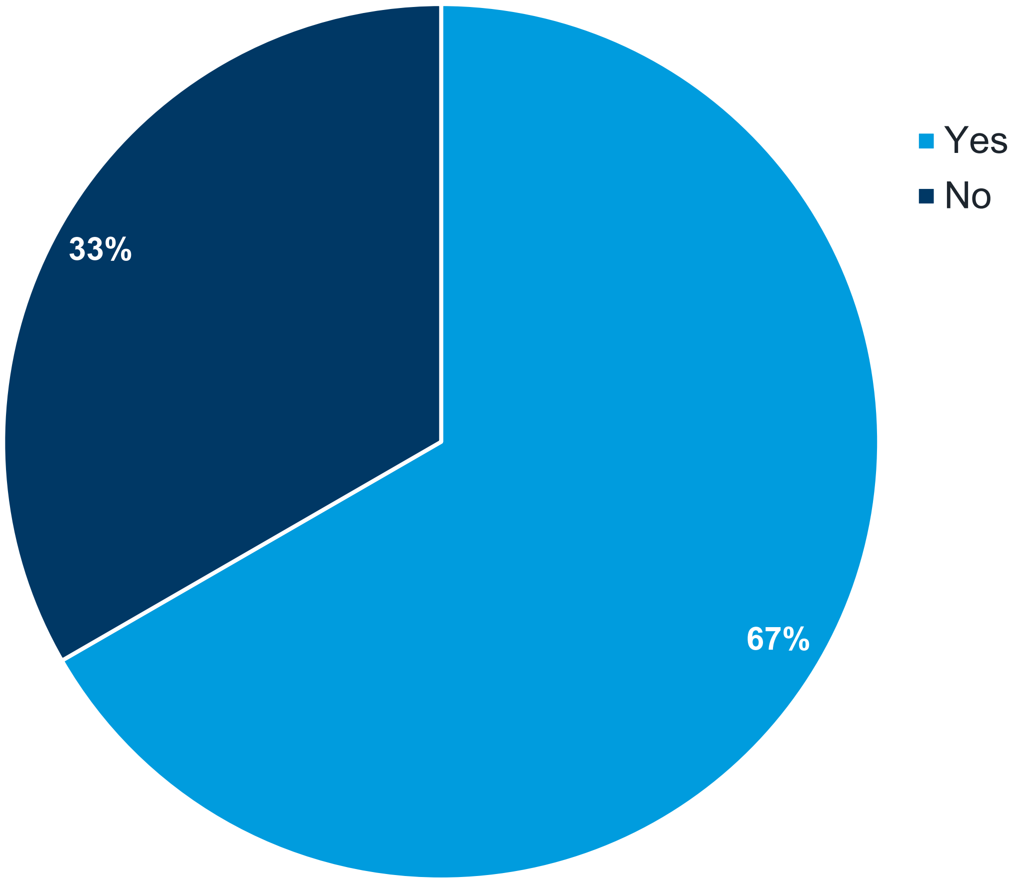
The retention amount is 0.25% in 60% of the deals.



Proskauer

Is there Recourse Beyond the Policy?

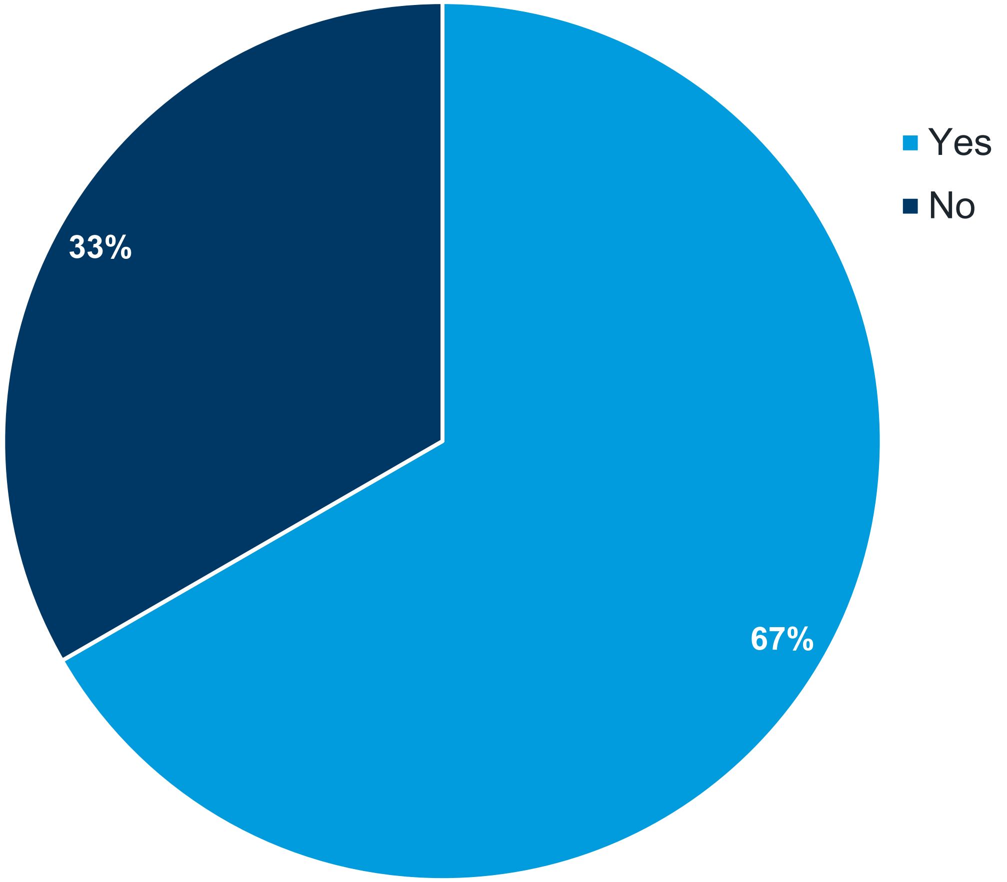
There is recourse beyond the policy in two-thirds of the deals reviewed in the past year.



Proskauer

If there is Recourse Beyond the Policy, is there a Cap?

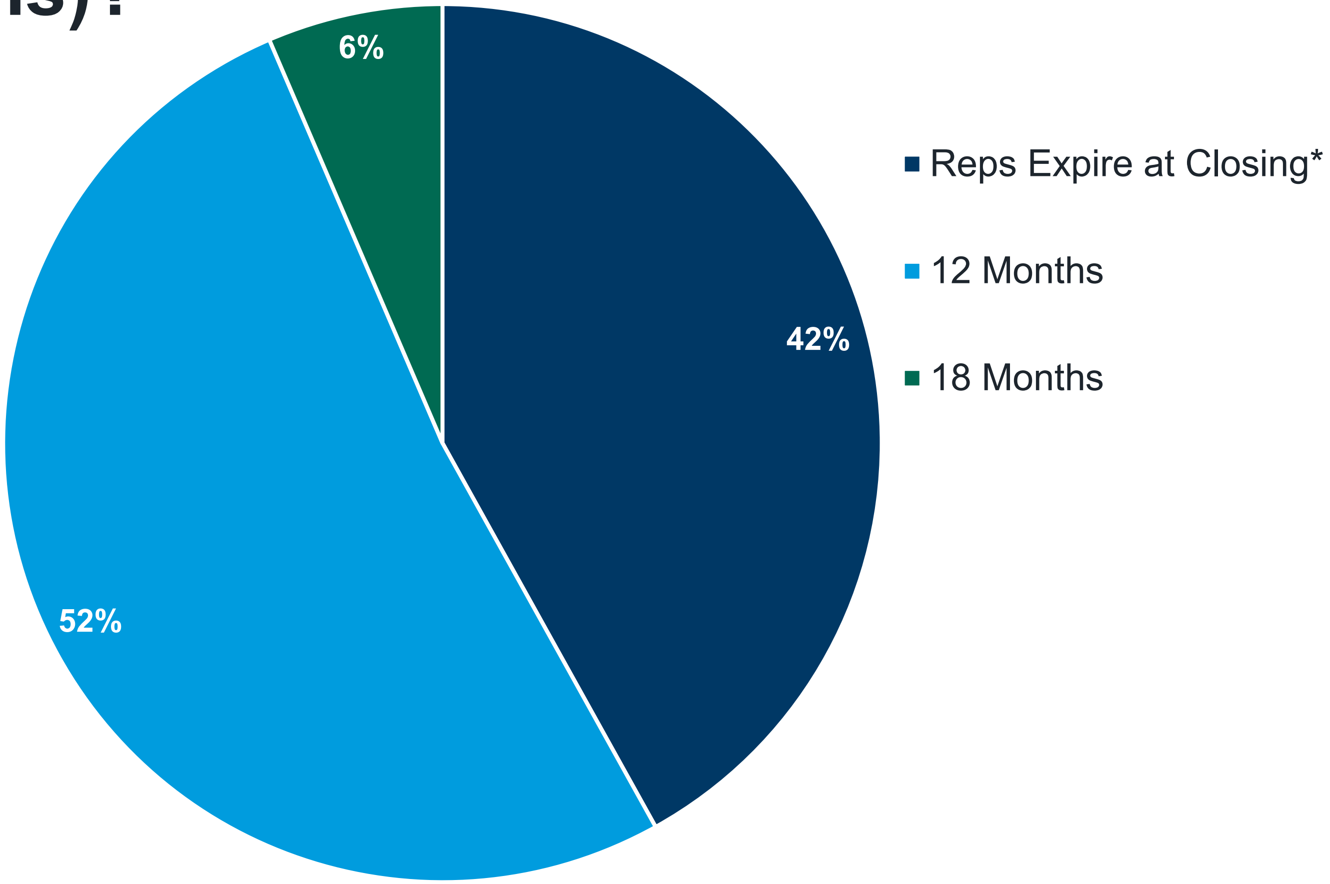
In deals where there is recourse beyond the policy, two-thirds include a cap. In all deals where there is a cap, the cap is 100% of the purchase price. In all deals without a cap, only claims for fraud were uncapped.



Proskauer

What is the Survival Period for General Representations and Warranties (in Months)?

A majority of the deals have a survival period for general reps and warranties of 12 months.

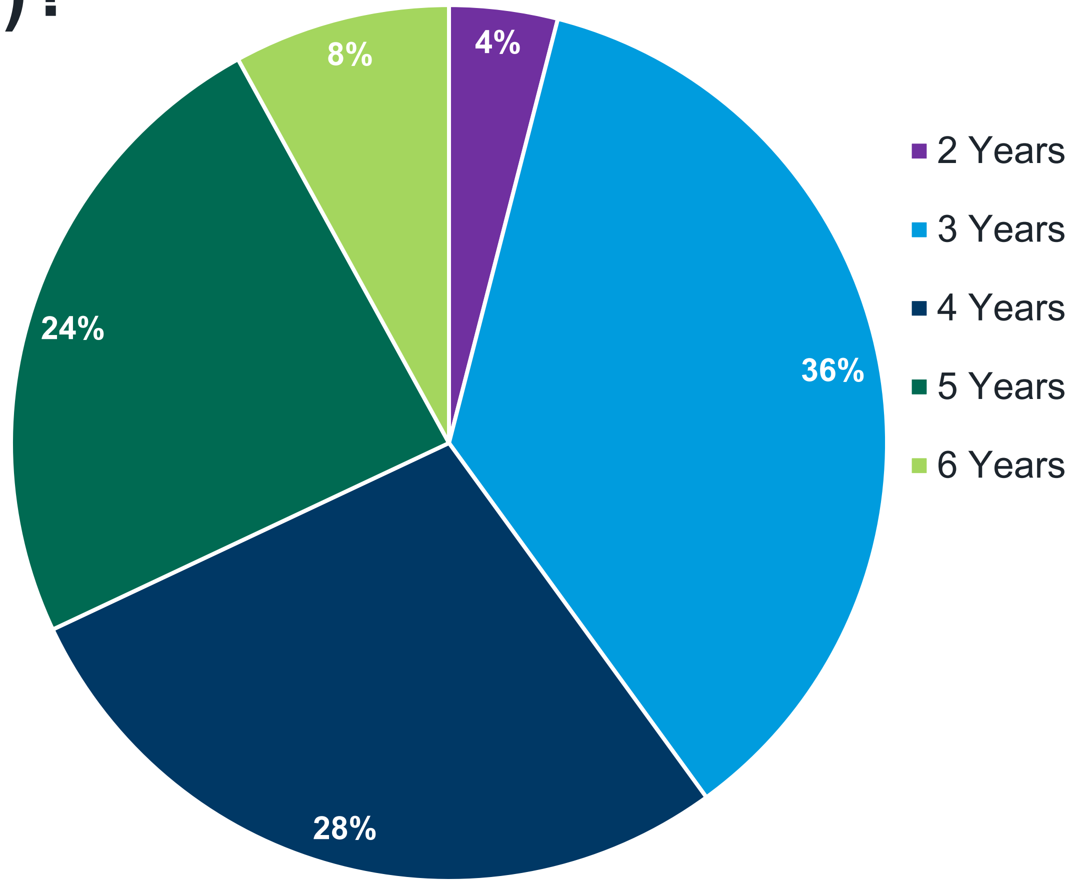


*Reps continue to survive under an RWI policy.

Proskauer

What is the Survival Period for Fundamental Representations and Warranties (in Years)?

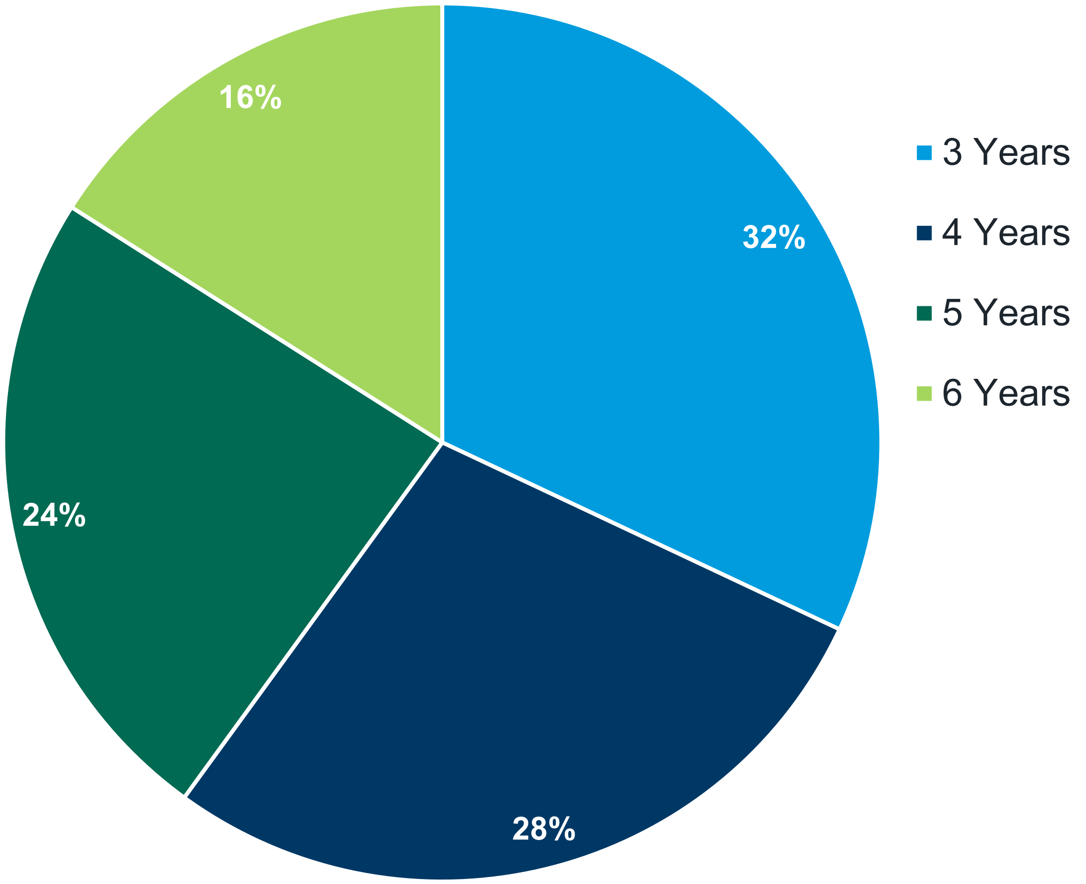
The most common survival period for fundamental representations and warranties is three years.



Proskauer

What is the Survival Period for Excluded Obligations (in Years)?

Three years is the most common survival period for excluded obligations (32% of deals).



Proskauer